

Introduced: 3/16/87  
Referred: Judiciary, Resources  
& Finance

5-0775B

1 IN THE SENATE BY HENSLEY AND BINKLEY  
2 SENATE BILL NO. 188  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act creating the Alaska Fisheries Management  
7 Commission and eliminating the Board of Fisheries;  
8 and providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. PURPOSE. It is the purpose of this Act to promote the  
11 utilization, development, conservation, and sustained-yield management of  
12 the fishery resources of the state in the public interest. The large scale  
13 and complexity of fisheries management in the state exceeds the capability  
14 of a part-time and seasonal Board of Fisheries to adequately address all  
15 the issues that have arisen in recent years. A full-time fisheries manage-  
16 ment commission will have a greater opportunity to investigate fisheries  
17 management issues and to achieve long lasting solutions. The commission  
18 form of management will also diminish the influence of special interest  
19 groups in fisheries management because a commission will have the time,  
20 staff, and resources to independently develop information necessary for  
21 sound and rational fishery management.  
22 \* Sec. 2. AS 16.05 is amended by adding new sections to read:  
23 Sec. 16.05.223. ALASKA FISHERIES MANAGEMENT COMMISSION. (a)  
24 There is established the Alaska Fisheries Management Commission as a  
25 regulatory agency of the state in the Department of Fish and Game.  
26 The commission consists of five members appointed by the governor and  
27 confirmed by the legislature in joint session.  
28 (b) The governor shall designate one member of the commission as  
29 chair of the commission. The member designated shall serve as chair

1 for a term of two years and may be designated chair for successive  
2 two-year terms.

3 Sec. 16.05.225. TERM OF OFFICE; VACANCY AND REMOVAL. (a) The  
4 members of the commission shall be appointed for terms of four years.

5 (b) A vacancy on the commission shall be filled by appointment  
6 by the governor and the appointment shall be confirmed by the legisla-  
7 ture in joint session. A member selected to fill a vacancy shall hold  
8 office for the balance of the full term for which the member's prede-  
9 cessor on the commission was appointed.

10 (c) A vacancy on the commission does not impair the authority of  
11 a quorum of members to exercise the powers and perform the duties of  
12 the commission.

13 (d) The governor may remove a member from office for cause,  
14 including but not limited to incompetence, neglect of duty, or miscon-  
15 duct in office. A member being removed for cause shall be given a  
16 copy of the charges and afforded an opportunity to publicly present a  
17 defense in person or by counsel upon not less than 10 days' notice.  
18 If a member is removed for cause, the governor shall file with the  
19 lieutenant governor a complete statement of all charges made against  
20 the member and the governor's findings based on the charges, together  
21 with a complete record of the proceedings.

22 Sec. 16.05.227. QUORUM OF COMMISSION. Three members of the  
23 commission constitute a quorum for the transaction of business, for  
24 the performance of a duty, or for the exercise of a power of the  
25 commission.

26 Sec. 16.05.229. QUALIFICATIONS. The commission shall consist of  
27 members with experience in the utilization, development, or management  
28 of the fishery resources of the state, none of whom holds a vested  
29 economic interest in an interim-use permit, entry permit, commercial

1 fishing vessel or gear, in the fishery resource processing or market-  
2 ing business, or in the sport fishing guide or charter business.

3 \* Sec. 3. AS 16.05 is amended by adding new sections to read:

4 Sec. 16.05.231. COMPENSATION. Members of the commission are in  
5 the exempt service and are entitled to a monthly salary equal to Step  
6 C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau.

7 Sec. 16.05.233. LEGAL COUNSEL. The attorney general is the  
8 legal counsel for the commission. The attorney general shall advise  
9 the commission in legal matters arising in the discharge of its duties  
10 and represent the commission in suits to which it is a party.

11 Sec. 16.05.235. COMMISSION STAFF. (a) The commissioner of fish  
12 and game serves as staff to the commission.

13 (b) The commission may employ necessary administrative person-  
14 nel.

15 \* Sec. 4. AS 16.05.050(14) is amended to read:

16 (14) to implement an on-board observer program authorized by  
17 the commission [BOARD OF FISHERIES] under AS 16.05.251(a)(13); imple-  
18 mentation

19 (A) must be as unintrusive to vessel operations as  
20 practicable; and

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

23 \* Sec. 5. AS 16.05.055(b) is amended to read:

24 (b) The master of a vessel, as a condition of participating in a  
25 fishery for which an on-board observer program is authorized by the  
26 commission [BOARD OF FISHERIES] under AS 16.05.251, shall consent in  
27 writing to the placement of an observer aboard the vessel.

28 \* Sec. 6. AS 16.05.070 is amended to read:

29 Sec. 16.05.070. REGULATIONS AS EVIDENCE. Regulations of the

1 commission, the board, [BOARDS OF FISHERIES AND GAME] and [OF] the  
2 commissioner, including emergency openings and closures, are admissi-  
3 ble as evidence in the courts of the state under [IN ACCORDANCE WITH]  
4 the Administrative Procedure Act (AS 44.62).

5 \* Sec. 7. AS 16.05.080 is amended to read:

6 Sec. 16.05.080. LIMITATION OF POWER. This [NOTHING IN THIS]  
7 chapter does not authorize [AUTHORIZES] the department, the commis-  
8 sion, or the board [BOARDS OF FISHERIES AND GAME] to change the amount  
9 of fees or licenses.

10 \* Sec. 8. AS 16.05.094 is amended to read:

11 Sec. 16.05.094. DUTIES OF SECTION OF SUBSISTENCE HUNTING AND  
12 FISHING. The section of subsistence hunting and fishing shall

13 (1) compile existing data and conduct studies to gather  
14 information, including data from subsistence users, on all aspects of  
15 the role of subsistence hunting and fishing in the lives of the resi-  
16 dents of the state;

17 (2) quantify the amount, nutritional value, and extent of  
18 dependence on food acquired through subsistence hunting and fishing;

19 (3) make information gathered available to the public,  
20 appropriate agencies, and other organized bodies;

21 (4) assist the department, the commission [BOARD OF FISHER-  
22 IES], and the board [BOARD OF GAME] in determining what uses of fish  
23 and game, as well as which users and what methods, should be termed  
24 subsistence uses, users, and methods;

25 (5) evaluate the impact of state and federal laws and  
26 regulations on subsistence hunting and fishing and, when corrective  
27 action is indicated, make recommendations to the department;

28 (6) make recommendations to the board [BOARD OF GAME] and  
29 the commission [BOARD OF FISHERIES] regarding adoption, amendment, and

1 repeal of regulations affecting subsistence hunting and fishing;

2 (7) participate with other divisions in the preparation of  
3 statewide and regional management plans so that those plans recognize  
4 and incorporate the needs of subsistence users of fish and game.

5 \* Sec. 9. AS 16.05.241 is amended to read:

6 Sec. 16.05.241. POWERS EXCLUDED. The board has [BOARDS HAVE]  
7 regulation-making powers as set out in this chapter, but does [DO] not  
8 have administrative, budgeting, or fiscal powers.

9 \* Sec. 10. AS 16.05.241 is amended by adding a new subsection to read:

10 (b) The commission has regulation-making powers as set out in  
11 this chapter, but does not have administrative, budgeting, or fiscal  
12 powers, except for the internal operation of the commission.

13 \* Sec. 11. AS 16.05.251 is amended to read:

14 Sec. 16.05.251. REGULATIONS OF THE COMMISSION [BOARD OF FISHER-  
15 IES]. (a) The commission [BOARD OF FISHERIES] may adopt regulations  
16 it considers advisable under [IN ACCORDANCE WITH] the Administrative  
17 Procedure Act (AS 44.62) for

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

21 (2) establishing open and closed seasons and areas for the  
22 taking of fish;

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

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

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

29 (6) classifying as commercial fish, sport fish, personal

1 use fish, subsistence fish, [OR] predators, or other categories essen-  
2 tial for regulatory purposes;

3 (7) watershed and habitat improvement, and management,  
4 conservation, protection, use, disposal, propagation, and stocking of  
5 fish;

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

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

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

14 (11) establishing the times and dates during which the  
15 issuance of fishing licenses, permits, and registrations and the  
16 transfer of permits and registrations between registration areas is  
17 allowed; however, this paragraph does not apply to permits issued or  
18 transferred under AS 16.43;

19 (12) regulating commercial, sport, subsistence, and personal  
20 use fishing as needed for the conservation, development, and utiliza-  
21 tion of fisheries;

22 (13) requiring, in a fishery, observers on board fishing  
23 vessels, as defined in AS 16.05.475(d), that are registered under the  
24 laws of the state, as defined in AS 16.05.475(c), after making a  
25 written determination that an on-board observer program

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

28 (B) will not unduly disrupt the fishery;

29 (C) can be conducted at a reasonable cost; and

1 (D) can be coordinated with observer programs of other  
2 agencies, including the National Marine Fisheries Service, North  
3 Pacific Fishery Management Council, and the International Pacific  
4 Halibut Commission.

5 \* Sec. 12. AS 16.05.251(c) is amended to read:

6 (c) If the commission [BOARD OF FISHERIES] denies a petition or  
7 proposal to amend, adopt, or repeal a regulation, the commission  
8 [BOARD], upon receiving a written request from the sponsor of the  
9 petition or proposal, shall in addition to the requirements of AS 44.-  
10 62.230 provide a written explanation for the denial to the sponsor not  
11 later than 30 days after the commission [BOARD] has officially met and  
12 denied the sponsor's petition or proposal, or 30 days after receiving  
13 the request for an explanation, whichever is later.

14 \* Sec. 13. AS 16.05.251(e) is amended to read:

15 (e) The commission [BOARD OF FISHERIES] shall establish criteria  
16 for the allocation of fishery resources among personal use, sport, and  
17 commercial fishing. The criteria may, as appropriate to particular  
18 allocation decisions, include factors such as

19 (1) the history of each personal use, sport, and commercial  
20 fishery;

21 (2) the number of residents and nonresidents who have  
22 participated in each fishery in the past and the number of residents  
23 and nonresidents who can reasonably be expected to participate in the  
24 future;

25 (3) the importance of each fishery for providing residents  
26 the opportunity to obtain fish for personal and family consumption;

27 (4) the availability of alternative fisheries resources;

28 (5) the importance of each fishery to the economy of the  
29 state;

1 (6) the importance of each fishery to the economy of the  
2 region and local area in which the fishery is located;

3 (7) the importance of each fishery in providing recrea-  
4 tional opportunities for residents and nonresidents.

5 \* Sec. 14. AS 16.05.253 is amended to read:

6 Sec. 16.05.253. OPERATION OF STATIONARY FISHING GEAR. (a) The  
7 commission [BOARD OF FISHERIES] may require a person who holds a  
8 limited entry permit or an interim-use permit under AS 16.43 to be  
9 physically present at a beach or riparian fishing site during the  
10 operation of net gear or other stationary fishing gear at the site,  
11 except when the permit holder is at or traveling to or from the lo-  
12 cation of

13 (1) a sale of fish caught in the gear; or

14 (2) other stationary gear of the permit holder.

15 (b) In [FOR PURPOSES OF] this section, "fishing site" means  
16 fishing site as defined by the commission [BOARD OF FISHERIES] and  
17 includes a [ANY] structure used for providing shelter in support of  
18 the operation of the net gear or other stationary fishing gear.

19 \* Sec. 15. AS 16.05.258(a) is amended to read:

20 (a) The commission and the board [BOARD OF FISHERIES AND THE  
21 BOARD OF GAME] shall identify the fish stocks and game populations, or  
22 portions of stocks and populations, that are customarily and tradi-  
23 tionally used for subsistence in each rural area identified by the  
24 commission and the board [BOARDS].

25 \* Sec. 16. AS 16.05.258(b) is amended to read:

26 (b) The commission and the board [BOARDS] shall determine

27 (1) what portion [, IF ANY,] of the stocks and populations  
28 identified under (a) of this section can be harvested consistent with  
29 sustained yield; and

1                   (2) how much of the harvestable portion is needed to pro-  
2                   vide a reasonable opportunity to satisfy the subsistence uses of those  
3                   stocks and populations.

4                   \* Sec. 17. AS 16.05.258(c) is amended to read:

5                   (c) The commission and the board [BOARDS] shall adopt subsis-  
6                   tence fishing and subsistence hunting regulations for each stock and  
7                   population for which a harvestable portion is determined to exist  
8                   under (b)(1) of this section. If the harvestable portion is not  
9                   sufficient to accommodate all consumptive uses of the stock or popula-  
10                  tion, but is sufficient to accommodate subsistence uses of the stock  
11                  or population, then nonwasteful subsistence uses shall be accorded a  
12                  preference over other consumptive uses, and the regulations must  
13                  [SHALL] provide a reasonable opportunity to satisfy the subsistence  
14                  uses. If the harvestable portion is sufficient to accommodate the  
15                  subsistence uses of the stock or population, then the commission or  
16                  the board, as appropriate, [BOARDS] may provide for other consumptive  
17                  uses of the remainder of the harvestable portion. If it is necessary  
18                  to restrict subsistence fishing or subsistence hunting in order to  
19                  assure sustained yield or continue subsistence uses, then the prefer-  
20                  ence shall be limited, and the commission and the board [BOARDS] shall  
21                  distinguish among subsistence users, by applying the following crite-  
22                  ria:

23                         (1) customary and direct dependence on the fish stock or  
24                         game population as the mainstay of livelihood;

25                         (2) local residency; and

26                         (3) availability of alternative resources.

27                   \* Sec. 18. AS 16.05.258(d) is amended to read:

28                   (d) The commission and the board [BOARDS] may adopt regulations  
29                   consistent with this section that authorize taking for nonsubsistence

1 uses a stock or population identified under (a) of this section.

2 \* Sec. 19. AS 16.05.260 is repealed and reenacted to read:

3 Sec. 16.05.260. ADVISORY COMMITTEES. (a) The commission and  
4 the board may adopt regulations they consider advisable under the  
5 Administrative Procedure Act (AS 44.62) establishing, at places in the  
6 state designated by the commission or the board, advisory committees  
7 to be composed of persons well informed on the fish or game resources  
8 of the locality. The commission and the board shall set the number  
9 and terms of each of the members of the advisory committees, shall  
10 designate one member of each committee as chairman, and shall give the  
11 chairman authority to hold public hearings on fish or game matters.

12 (b) Recommendations relating to game from the advisory commit-  
13 tees shall be forwarded to the board for consideration.

14 (c) Recommendations relating to fisheries from the advisory  
15 committees shall be forwarded to the commission for consideration.

16 (d) If the commission or the board chooses not to follow the  
17 recommendations of the local advisory committee, the commission or the  
18 board shall inform the appropriate advisory committee of this action  
19 and state the reasons for not following the recommendations.

20 (e) The commissioner of fish and game shall delegate authority  
21 to advisory committees for emergency closures during established  
22 seasons. The commissioner is empowered to set aside and void only  
23 opening of seasons set by the advisory committees under this section.  
24 The commission and the board shall adopt the necessary regulations  
25 governing these closures.

26 \* Sec. 20. AS 16.05.270 is amended to read:

27 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. For  
28 the purpose of administering AS 16.05.251 and 16.05.255, the commis-  
29 sion and the [EACH] board may delegate authority to the commissioner

1 to act in its behalf. If there is a conflict between the commission  
2 or the board and the commissioner on proposed regulations, public  
3 hearings shall be held concerning the issues in question. If, after  
4 the public hearings, the board commission or the and the commissioner  
5 continue to disagree, the issue shall be certified in writing by the  
6 commission or the board and the commissioner to the governor who shall  
7 make a decision. The decision of the governor is final.

8 \* Sec. 21. AS 16.05.290 is amended to read:

9 Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of  
10 the [A] board is entitled to travel expenses and \$150 per diem for  
11 each day going to and from and for each day in actual attendance at  
12 board meetings. For other meetings or conferences authorized by the  
13 [A] board a member shall receive \$100 per day.

14 \* Sec. 22. AS 16.05.300(a) is amended to read:

15 (a) The [EACH] board shall hold at least one meeting a year and  
16 as many other meetings as it considers necessary. The [EACH] board  
17 shall select the time and place in the state for the transaction of  
18 business. The [EACH] board shall maintain its office at the principal  
19 office of the department.

20 \* Sec. 23. AS 16.05.300(b) is amended to read:

21 (b) The commission [IN ADDITION, THE BOARD OF FISHERIES] shall  
22 hold at least one meeting or hearing a year in each of the following  
23 general areas:

- 24 (1) Upper Yukon - Kuskokwim - Arctic
- 25 (2) Western Alaska (including Kodiak)
- 26 (3) Southcentral
- 27 (4) Prince William Sound (including Yakutat)
- 28 (5) Southeast.

29 \* Sec. 24. AS 16.05.305 is amended to read:

1           Sec. 16.05.305. CLERICAL ASSISTANCE FOR BOARD [BOARDS]. The  
2 board is [BOARD OF FISHERIES AND THE BOARD OF GAME ARE] authorized to  
3 hire and set the compensation for one clerical assistant for the  
4 [EACH] board.

5 \* Sec. 25. AS 16.05.310 is amended to read:

6           Sec. 16.05.310. SPECIAL BOARD MEETINGS. The [A] board may meet  
7 at any time upon the call of the commissioner or upon the request of  
8 two board members.

9 \* Sec. 26. AS 16.05.315 is amended to read:

10           Sec. 16.05.315. JOINT [BOARD] MEETINGS. The commission [BOARD  
11 OF FISHERIES] and the board [BOARD OF GAME] may hold a joint meeting  
12 upon the call of the commissioner, the commission, or the [OR A] board  
13 to resolve [ANY] conflicts in regulations of the commission and of the  
14 board [BOARDS] and to consider matters, as determined by the commis-  
15 sioner, the commission, or the [OR A] board, which require the consid-  
16 eration of both the commission and the board [BOARDS].

17 \* Sec. 27. AS 16.05.315 is amended by adding a new subsection to read:

18           (b) A majority of the members of the commission and the board  
19 constitute a quorum for the transaction of business in a joint meet-  
20 ing. A majority of the membership of the commission and the board is  
21 required to carry joint motions, regulations, and resolutions.

22 \* Sec. 28. AS 16.05.320 is amended to read:

23           Sec. 16.05.320. QUORUM OF BOARD. A majority of the members of  
24 the [A] board constitutes a quorum for the transaction of business,  
25 for the performance of any duty, and for the exercise of any power.  
26 However, a majority of the full board membership is required to carry  
27 all motions, regulations, and resolutions. [A MAJORITY OF THE MEMBERS  
28 OF THE BOARDS OF FISHERIES AND GAME CONSTITUTE A QUORUM FOR THE TRANS-  
29 ACTION OF BUSINESS IN A JOINT BOARD MEETING. A MAJORITY OF THE

1 MEMBERSHIP OF THE BOARDS IS REQUIRED TO CARRY ALL JOINT MOTIONS, REGU-  
2 LATIONS AND RESOLUTIONS OF THE BOARDS.]

3 \* Sec. 29. AS 16.05.330(c) is amended to read:

4 (c) The commission and the board [BOARD OF FISHERIES AND THE  
5 BOARD OF GAME] may adopt regulations providing for the issuance and  
6 expiration of subsistence permits for areas, villages, communities,  
7 groups, or individuals as needed for authorizing, regulating, and  
8 monitoring the subsistence harvest of fish and game. The commission  
9 and the board [BOARDS] shall adopt these regulations when the subsis-  
10 tence preference requires a reduction in the harvest of a fish stock  
11 or game population by nonsubsistence users.

12 \* Sec. 30. AS 16.05.475(b) is amended to read:

13 (b) The term "employ", as used in this section, shall be defined  
14 by the commission [BOARD OF FISHERIES] through the adoption of regu-  
15 lations under the Administrative Procedure Act (AS 44.62). The defi-  
16 nition may include any activities involving the use or navigation of  
17 fishing vessels.

18 \* Sec. 31. AS 16.05.475(c) is amended to read:

19 (c) The term "registered under the laws of the state", as used  
20 in this section, shall be defined by the commission [BOARD OF FISH-  
21 ERIES] through the adoption of regulations under the Administrative  
22 Procedure Act (AS 44.62). The definition may include any existing  
23 requirements regarding registration, licenses, permits, and similar  
24 matters imposed by law or regulation together with modifications of  
25 them and with any additional requirements the commission [BOARD] finds  
26 necessary to maximize the authority of the state to apply and enforce  
27 fisheries regulations under the Fishery Conservation and Management  
28 Act of 1976 (P.L. 94-265, 90 Stat. 331, 16 U.S.C. 1801 et seq.).

29 \* Sec. 32. AS 16.05.632(a) is amended to read:

1           (a) Registration tags for the identification of shellfish pots  
2 or buoys, or both, used in the taking of king crab are required in  
3 areas in which the commission [BOARD] has regulations limiting the  
4 total amount of shellfish pots allowed per vessel. Registration tags  
5 shall

6           (1) be issued by the Department of Fish and Game under  
7 regulations adopted by the commission [BOARD];

8           (2) be nontransferable;

9           (3) be individually numbered, designating the year of  
10 issuance;

11           (4) be permanently affixed to each shellfish pot or buoy,  
12 or both, used in the taking of king crab, whichever in the determina-  
13 tion of the commission [BOARD] is appropriate for identification, and  
14 in a manner determined to be appropriate by the commission [BOARD];

15           (5) conform to other requirements determined to be appro-  
16 priate by the commission [BOARD]; and

17           (6) be issued and renewed for a fee equal to the cost of  
18 obtaining the registration tags plus reasonable administrative costs,  
19 under procedures determined to be appropriate by the Department of  
20 Fish and Game.

21 \* Sec. 33. AS 16.05.632(c) is amended to read:

22           (c) In addition to meeting other requirements imposed by law,  
23 each shellfish pot used in the taking of king crab shall be connected  
24 to one durable "sea lion" buoy of an appropriate type and diameter as  
25 specified by the commission [BOARD]. The buoy shall conform to other  
26 specifications determined to be appropriate by the commission [BOARD].

27 \* Sec. 34. AS 16.05.632(d) is amended to read:

28           (d) For the purposes of this section

29           [[1) "BOARD" MEANS THE BOARD OF FISHERIES;

1 (2)] "registration tags" means any tag, tape, or other  
2 identification device or method determined to be appropriate by the  
3 board.

4 \* Sec. 35. AS 16.05.685(c) is amended to read:

5 (c) In this section,

6 (1) "process" means to butcher, cook, chill, or freeze crab  
7 for commercial use;

8 (2) "registration area" means a specific king crab regis-  
9 tration area as designated by regulation of the commission [BOARD OF  
10 FISHERIES].

11 \* Sec. 36. AS 16.05.785 is amended to read:

12 Sec. 16.05.785. FAILURE TO REMOVE MARKERS. If the commission  
13 [BOARD OF FISHERIES] by regulation uses Department of Fish and Game  
14 markers to establish waters closed to commercial fishing and the state  
15 fails to remove the old markers when new markers are posted to estab-  
16 lish waters closed to commercial fishing, commercial fishing is ex-  
17 pressly permitted in the waters between the new markers and the old  
18 markers until the old markers are removed.

19 \* Sec. 37. AS 16.05.820 is amended to read:

20 Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The Secre-  
21 tary of the Interior, the Secretary of Commerce, or the Secretary of  
22 Agriculture of the United States and their authorized agents or other  
23 appropriate federal agencies may conduct fish cultural operations and  
24 scientific investigations in the state in the manner and at the times  
25 jointly considered necessary or proper by the commission [BOARD OF  
26 FISHERIES] and the secretary and their authorized agents.

27 \* Sec. 38. AS 16.05.930(b) is amended to read:

28 (b) This chapter does not prohibit a person from taking fish or  
29 game during the closed season, in case of dire emergency, as defined

1 by regulation adopted by the commission or the [APPROPRIATE] board.

2 \* Sec. 39. AS 16.05.930(c) is amended to read:

3 (c) AS 16.05.920 does not prohibit rearing and sale of fish from  
4 private ponds, the raising of wild animals in captivity for food or  
5 the raising of game birds for the purpose of recreational hunting on  
6 game hunting preserves, under regulations adopted by the commission or  
7 the [APPROPRIATE] board. In this subsection, "animals" includes all  
8 animal life, including insects and bugs.

9 \* Sec. 40. AS 16.05.940(3) is amended to read:

10 (3) "[A] board" means [EITHER THE BOARD OF FISHERIES OR]  
11 the Board of Game;

12 \* Sec. 41. AS 16.05.940(9) is amended to read:

13 (9) "domicile" means the true and permanent home of a  
14 person from which the person has no present intention of moving and to  
15 which the person intends to return whenever the person is away; domi-  
16 cile may be proved by presenting evidence acceptable to the commission  
17 and the board [BOARDS OF FISHERIES AND GAME];

18 \* Sec. 42. AS 16.05.940(12) is amended to read:

19 (12) "fishery" means a specific administrative area in which  
20 a specific fishery resource is commercially taken with a specific type  
21 of gear; however, the commission [BOARD OF FISHERIES] may designate a  
22 fishery to include more than one specific administrative area, gear  
23 type, or fishery resource; in this paragraph "gear" and "type of gear"  
24 have the meanings given in AS 16.43.990;

25 \* Sec. 43. AS 16.05.940(23) is amended to read:

26 (23) "personal use fishing" means the taking, fishing for,  
27 or possession of finfish, shellfish, or other fishery resources, by  
28 Alaska residents for personal use and not for sale or barter, with  
29 gill or dip net, seine, fish wheel, long line, or other means defined

1 by the commission [BOARD OF FISHERIES];

2 \* Sec. 44. AS 16.05.940(27) is amended to read:

3 (27) "sport fishing" means the taking of or attempting to  
4 take for personal use, and not for sale or barter, any fresh water,  
5 marine, or anadromous fish by hook and line held in the hand, or by  
6 hook and line with the line attached to a pole or rod which is held in  
7 the hand or closely attended, or by other means defined by the commis-  
8 sion [BOARD OF FISHERIES];

9 \* Sec. 45. AS 16.05.940(28) is amended to read:

10 (28) "subsistence fishing" means the taking of, fishing for,  
11 or possession of fish, shellfish, or other fisheries resources by a  
12 resident domiciled in a rural area of the state for subsistence uses  
13 with gill net, seine, fish wheel, long line, or other means defined by  
14 the commission [BOARD OF FISHERIES];

15 \* Sec. 46. AS 16.05.940 is amended by adding a new paragraph to read:

16 (35) "commission" means the Alaska Fisheries Management  
17 Commission.

18 \* Sec. 47. AS 16.10.125 is amended to read:

19 Sec. 16.10.125. USE OF TERMINATION DEVICE ON SHELLFISH AND  
20 BOTTOM FISH POT REQUIRED. The commission [BOARD OF FISHERIES] shall,  
21 by regulation, prescribe a termination device or devices for all  
22 shellfish and bottom fish pots. In this section "termination device"  
23 means a biodegradable seam or panel or other device which renders the  
24 pot incapable of holding shellfish or bottom fish for more than six  
25 months when it is continuously immersed in sea water.

26 \* Sec. 48. AS 16.10.173(d) is amended to read:

27 (d) The commission [BOARD OF FISHERIES] may adopt regulations  
28 under the Administrative Procedure Act (AS 44.62) [IT CONSIDERS]  
29 necessary for implementation of this section. The commission [BOARD]

1        may delegate its authority under this section to the commissioner.

2        \* Sec. 49. AS 16.10.190 is amended to read:

3                Sec. 16.10.190. REGULATIONS. The commission [BOARD OF FISHER-  
4        IES] may adopt regulations to carry out the purposes of AS 16.10.180 -  
5        16.10.230 defining the adjacent high sea areas, migratory fish and  
6        migratory shellfish and to make coastal fishery regulations governing  
7        the manner, means, conditions, and time for the taking of migratory  
8        fish and migratory shellfish applicable in designated adjacent high  
9        sea areas.

10       \* Sec. 50. AS 16.10.200 is amended to read:

11                Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. A person taking  
12        migratory fish and migratory shellfish in high sea areas designated by  
13        the commission [BOARD OF FISHERIES] or in violation of the regulations  
14        adopted by the commission [BOARD OF FISHERIES] governing the taking of  
15        migratory fish and migratory shellfish in the designated areas may not  
16        possess, sell, offer to sell, barter, offer to barter, give, or trans-  
17        port in the state, including the waters of the state, migratory fish  
18        or migratory shellfish.

19       \* Sec. 51. AS 16.10.210 is amended to read:

20                Sec. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. A person may  
21        not possess, purchase, offer to purchase, sell, or offer to sell in  
22        the state migratory fish or migratory shellfish taken on the high seas  
23        knowing that they were taken in violation of a regulation adopted by  
24        the commission [BOARD OF FISHERIES] governing the taking of migratory  
25        fish or migratory shellfish in certain areas designated by the commis-  
26        sion [BOARD OF FISHERIES] or the commissioner.

27       \* Sec. 52. AS 16.10.440(b) is amended to read:

28                (b) The commission [BOARD OF FISHERIES] may, after the issuance  
29        of a permit by the commissioner, amend by regulation adopted under [IN

1 ACCORDANCE WITH] the Administrative Procedure Act (AS 44.62), the  
2 terms of the permit relating to the source and number of salmon eggs,  
3 the harvest of fish by hatchery operators, and the specific locations  
4 designated by the department for harvest. The commission [BOARD OF  
5 FISHERIES] may not adopt [ANY] regulations or take [ANY] action re-  
6 garding the issuance or denial of [ANY] permits required in AS 16.10.-  
7 400 - 16.10.470.

8 \* Sec. 53. AS 16.20.240 is amended to read:

9 Sec. 16.20.240. REGULATIONS. The commission [BOARD OF FISH-  
10 ERIES] and the board [BOARD OF GAME], where appropriate, shall adopt  
11 regulations they consider advisable for conservation and protection  
12 purposes governing the taking of fish and game in state fish and game  
13 critical habitat areas.

14 \* Sec. 54. AS 16.35.200 is amended to read:

15 Sec. 16.35.200. USE OF POISON BY DEPARTMENTS AND OTHER STATE  
16 AGENCIES. A department, other state agency, or person may not use  
17 poison to kill predatory animals without first obtaining the written  
18 consent of the commission or the board, as appropriate [BOARD].

19 \* Sec. 55. AS 16.43.200(a) is amended to read:

20 (a) The commission shall establish administrative areas suitable  
21 for regulating and controlling entry into the commercial fisheries.  
22 The commission shall make the administrative areas reasonably com-  
23 patible with the geographic areas for which specific commercial fish-  
24 ing regulations are adopted by the Alaska Fisheries Management Commis-  
25 sion [BOARD OF FISHERIES].

26 \* Sec. 56. AS 16.43.381(a) is amended to read:

27 (a) Use privileges granted under AS 16.43.340 - 16.43.390 are  
28 subject to the regulations of the Alaska Fisheries Management Commis-  
29 sion [BOARD OF FISHERIES] which may adopt regulations exclusively

1 applicable to the use of educational entry permits.

2 \* Sec. 57. AS 16.43.430 is amended to read:

3 Sec. 16.43.430. AUTHORIZED GEAR. For the purposes of harvesting  
4 salmon, a special harvest area entry permit holder may employ any  
5 fishing gear designated as legal gear in the applicable special har-  
6 vest area by the Alaska Fisheries Management Commission [BOARD OF  
7 FISHERIES].

8 \* Sec. 58. AS 16.43.440(a) is amended to read:

9 (a) Use privileges granted under AS 16.43.400 - 16.43.440 are  
10 subject to the regulations of the Alaska Fisheries Management Commis-  
11 sion [BOARD OF FISHERIES].

12 \* Sec. 59. AS 16.43.950 is amended to read:

13 Sec. 16.43.950. APPLICATIONS OF REGULATIONS OF THE ALASKA FISH-  
14 ERIES MANAGEMENT COMMISSION [BOARD OF FISHERIES]. This [NOTHING IN  
15 THIS] chapter does not limit [LIMITS] the powers of the Alaska Fisher-  
16 ies Management Commission [BOARD OF FISHERIES], including the power to  
17 determine legal types of gear and the power to establish size limita-  
18 tions or other uniform restrictions applying to a certain type of  
19 gear. Holders of interim-use permits or entry permits issued under  
20 this chapter are subject to all regulations adopted by the Alaska  
21 Fisheries Management Commission [BOARD OF FISHERIES].

22 \* Sec. 60. AS 16.43.955 is amended to read:

23 Sec. 16.43.955. HEARINGS IN PROXIMITY TO ALASKA FISHERIES MAN-  
24 AGEMENT COMMISSION [BOARD OF FISHERIES] MEETINGS. When practicable, a  
25 commission hearing that deals with the subject of limiting entry to a  
26 fishery shall be held on the same dates on which, and in the same  
27 building or in a building adjacent to the building in which, an Alaska  
28 Fisheries Management Commission [A BOARD OF FISHERIES] meeting is  
29 being held.

1 \* Sec. 61. AS 16.43.990(8) is amended to read:

2 (8) "type of gear" means a customary and identifiable  
3 classification of gear and shall include:

4 (A) those classifications for which separate regula-  
5 tions were adopted by the former Board of Fisheries and for which  
6 separate gear licenses were required by former AS 16.05.550 -  
7 16.05.630; and

8 (B) distinct subclassifications of gear such as "pow-  
9 er" troll gear and "hand" troll gear;

10 \* Sec. 62. AS 16.43.990(9) is amended to read:

11 (9) "unit of gear" means the maximum amount of a specific  
12 type of gear which can be fished under a single gear license subject  
13 to regulations established by the Alaska Fisheries Management Commis-  
14 sion [BOARD OF FISHERIES] defining the legal requirements for that  
15 type of gear.

16 \* Sec. 63. AS 39.05.060(a) is amended to read:

17 (a) Each member of the following shall be a citizen of the  
18 United States:

19 (1) Local Boundary Commission;

20 (2) Alcoholic Beverage Control Board;

21 (3) Employment Security Advisory Council;

22 (4) Alaska State Building Authority;

23 (5) Alaska Fisheries Management Commission [BOARD OF FISH-  
24 ERIES];

25 (6) Board of Tourism;

26 (7) [REPEALED

27 (8) REPEALED

28 (9)] the Governor's Commission on the Involvement of Young  
29 People in Government;

1                   (8) [(10)] Board of Game.

2   \* Sec. 64. AS 39.50.200(b)(40) is amended to read:

3                   (40) Alaska Fisheries Management Commission (AS 16.05.223)  
4   [BOARD OF FISHERIES (AS 16.05.221(a))]

5   \* Sec. 65. AS 41.21.174(b) is amended to read:

6                   (b) The Department of Fish and Game is responsible for the  
7   management of fish and game resources in the Shuyak Island State Park,  
8   consistent with the sustained yield principle and the purposes and  
9   provisions of this chapter. The Alaska Fisheries Management Commis-  
10   sion [BOARD OF FISHERIES], the Board of Game, and the commissioner of  
11   fish and game are responsible for adopting regulations governing uses  
12   of fish and game under [IN ACCORDANCE WITH] AS 16. The fish and game  
13   habitat and breeding areas shall be managed to ensure that the fish  
14   and game resources of the park continue on a sustained yield basis.

15   \* Sec. 66. AS 41.21.176(c) is amended to read:

16                   (c) The regulations governing public use of the Shuyak Island  
17   State Park shall provide ample access for legal sport and subsistence  
18   hunting and fishing, trapping, and recreational uses. Except to pro-  
19   tect public safety the commissioner of natural resources may not  
20   restrict the exercise of sport or subsistence fishing or hunting, or  
21   trapping permitted under law or under a regulation of the Alaska  
22   Fisheries Management Commission [BOARD OF FISHERIES] or the Board of  
23   Game within the Shuyak Island State Park.

24   \* Sec. 67. AS 41.21.302(d) is amended to read:

25                   (d) The commissioner of natural resources may not restrict the  
26   exercise of fishing, hunting, or trapping rights permitted under law  
27   or under a regulation of the Alaska Fisheries Management Commission  
28   [BOARD OF FISHERIES] or the Board of Game within a marine park unit of  
29   the Alaska state park system.

1 \* Sec. 68. AS 41.21.504(b) is amended to read:

2 (b) [NOTHING IN] AS 41.21.500 - 41.21.514 do not affect [AF-  
3 FECTS] the applicability of

4 (1) AS 41.99.010 and AS 16 regarding the responsibilities  
5 of the Department of Fish and Game, [OR] the Alaska Fisheries Manage-  
6 ment Commission, [BOARD OF FISHERIES] or the Board of Game;

7 (2) AS 46.03 regarding the responsibilities of the Depart-  
8 ment of Environmental Conservation; or

9 (3) AS 44.19.145(a)(11) and AS 46.40.100 regarding the  
10 responsibilities of state agencies and municipalities.

11 \* Sec. 69. AS 41.21.616 is amended to read:

12 Sec. 41.21.616. REGULATIONS. The department shall consult with  
13 the Department of Fish and Game, the United States Fish and Wildlife  
14 Service, a local governing body of a municipality, any local fish and  
15 game advisory committees, and the Alaska Chilkat Bald Eagle Preserve  
16 Advisory Council established by AS 41.21.625 before adoption of rea-  
17 sonable regulations governing public use and protection of the Alaska  
18 Chilkat Bald Eagle Preserve. The Department of Fish and Game shall  
19 consult with the department and the Alaska Chilkat Bald Eagle Preserve  
20 Advisory Council in proposing regulations governing fish and game  
21 management in the Alaska Chilkat Bald Eagle Preserve for adoption by  
22 the Alaska Fisheries Management Commission [BOARD OF FISHERIES] or the  
23 Board of Game. The Department of Fish and Game and the department  
24 shall cooperate with the United States Fish and Wildlife Service in  
25 its administration of federal law governing the conservation of bald  
26 eagles.

27 \* Sec. 70. AS 41.23.030(c) is amended to read:

28 (c) The commissioner may not restrict lawful sport and subsis-  
29 tence fishing, hunting, or trapping rights allowed under a regulation

1 of the Alaska Fisheries Management Commission [BOARD OF FISHERIES] or  
2 the Board of Game within the Nelchina Public Use Area.

3 \* Sec. 71. AS 41.99.010 is amended to read:

4 Sec. 41.99.010. GAME MANAGEMENT AND ENFORCEMENT. Nothing in  
5 this title denies the Department of Fish and Game or the Alaska Fish-  
6 eries Management Commission [BOARD OF FISHERIES] and the Board of Game  
7 their management and enforcement responsibilities related to the fish  
8 and game of this state.

9 \* Sec. 72. AS 44.39.030 is amended to read:

10 Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF COMMISSIONER.  
11 The governor shall appoint the commissioner of fish and game from a  
12 list of qualified persons nominated by the Alaska Fisheries Management  
13 Commission [BOARD OF FISHERIES] and the Board of Game meeting in joint  
14 session, subject to the right of the governor to request additional  
15 nominations. The appointment shall be confirmed by a majority of the  
16 members of the legislature in joint session. The commissioner of fish  
17 and game serves for a term of five years.

18 \* Sec. 73. AS 44.39.050 is amended to read:

19 Sec. 44.39.050. REMOVAL OF COMMISSIONER. The Alaska Fisheries  
20 Management Commission [BOARD OF FISHERIES] or the Board of Game may  
21 submit a resolution to the governor requesting the removal of the  
22 commissioner. The resolution shall set out the grounds for the re-  
23 quest and the governor shall give the commissioner, the Alaska Fisher-  
24 ies Management Commission, and the Board of Game [BOTH BOARDS] an  
25 opportunity to be heard. The final decision to remove or retain the  
26 commissioner shall be made by the governor.

27 \* Sec. 74. AS 44.62.330(a)(40) is amended to read:

28 (40) Alaska Fisheries Management Commission [BOARD OF FISH-  
29 ERIES]

1       \* Sec. 75. TRANSITION. Litigation, hearings, investigations, and other  
2 proceedings pending under a law amended or repealed by this Act, or in  
3 connection with functions transferred by this Act, continue in effect and  
4 may be continued and completed notwithstanding a transfer or amendment or  
5 repeal provided for on this Act. Regulations adopted under authority of a  
6 law amended or repealed by this Act remain in effect for the term issued,  
7 or until repealed or otherwise amended under the provisions of this Act.

8       \* Sec. 76. AS 16.05.221(a) is repealed.

9       \* Sec. 77. This Act takes effect July 1, 1987.