

BY REP. ULMER, Boyer, Goll, Navarre, Salo, Brown

1 IN THE HOUSE

2

HOUSE BILL NO. 603

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SPECIAL SESSION

5

A BILL

6 For an Act entitled: "An Act relating to subsistence uses of fish and

7

game; and providing for an effective date."

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

9 * Section 1. AS 16.05.094 is amended by adding a new subsection to
10 read:

11 (b) The section of subsistence hunting and fishing shall provide
12 staff support for the Subsistence Board.

13 * Sec. 2. AS 16.05.221 is amended by adding a new subsection to read:

14 (c) There is created the Subsistence Board, consisting of three
15 members appointed for three-year terms by the governor and subject to
16 confirmation by a majority of the members of the legislature in joint
17 session. The members shall be residents of the state and shall be
18 appointed without regard to political or special interest affiliation
19 or geographical location of residence. Members of the board serve
20 without compensation but are entitled to per diem and travel expenses
21 authorized for boards under AS 39.20.180. The commissioner is not a
22 member of the Subsistence Board but shall be ex officio secretary.

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

24 Sec. 16.05.231. AUTHORITY OF SUBSISTENCE BOARD. (a) The Sub-
25 sistence Board shall adopt regulations under the Administrative Proce-
26 dure Act (AS 44.62) defining the term "rural area" in a manner consis-
27 tent with 16 U.S.C. 3112 - 3115.

28 (b) The Subsistence Board shall identify

29 (1) communities and areas of the state that are rural areas

1 as defined in the regulations adopted under (a) of this section;

2 (2) fish stocks and game populations, or portions of stocks
3 and populations, that are the subject to subsistence uses; and

4 (3) fish stocks and game populations, or portions of stocks
5 and populations, that are appropriate for nonrural subsistence uses.

6 (c) With respect to each fish stock and game population, or
7 portion of a stock or population, identified under (b)(3) of this
8 section, the Subsistence Board shall identify residents who are eligi-
9 ble to engage in the taking of the stock or population for nonrural
10 subsistence uses based on their customary and direct dependence on the
11 noncommercial use of fish and game as the mainstay of livelihood.

12 * Sec. 4. AS 16.05.251(a) is amended to read:

13 (a) The Board of Fisheries may adopt regulations it considers
14 advisable under [IN ACCORDANCE WITHH] the Administrative Procedure Act
15 (AS 44.62) for

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

19 (2) establishing open and closed seasons and areas for the
20 taking of fish; if consistent with resource conservation and develop-
21 ment goals, the board may adopt regulations establishing restricted
22 seasons and areas necessary for persons 60 years of age and older to
23 participate in sport, personal use, or subsistence fishing;

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

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

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

1 (6) classifying as commercial fish, sport fish, personal
2 use fish, subsistence fish, nonrural subsistence fish, or predators or
3 other categories essential for regulatory purposes;

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

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

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

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

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

20 (12) regulating commercial, sport, subsistence, nonrural
21 subsistence, and personal use fishing as needed for the conservation,
22 development, and utilization of fisheries;

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

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

29 (B) will not unduly disrupt the fishery;

1 (C) can be conducted at a reasonable cost; and
2 (D) can be coordinated with observer programs of other
3 agencies, including the National Marine Fisheries Service, North
4 Pacific Fishery Management Council, and the International Pacific
5 Halibut Commission;

6 (14) establishing nonexclusive, exclusive, and superexclu-
7 sive registration and use areas for regulating commercial fishing.

8 * Sec. 5. AS 16.05.251(d) is amended to read:

9 (d) Regulations adopted under (a) of this section must, consis-
10 tent with sustained yield and the provisions of AS 16.05.258, provide
11 a fair and reasonable opportunity for the taking of fishery resources
12 by nonrural subsistence, personal use, sport, and commercial fisher-
13 men.

14 * Sec. 6. AS 16.05.251(e) is amended to read:

15 (e) The Board of Fisheries shall establish criteria for the
16 allocation of fishery resources among nonrural subsistence, personal
17 use, sport, and commercial fishing. The criteria may, as appropriate
18 to particular allocation decisions, include factors such as

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

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

5 * Sec. 7. AS 16.05.255(a) is amended to read:

6 (a) The Board of Game may adopt regulations it considers advis-
7 able under [IN ACCORDANCE WITH] the Administrative Procedure Act
8 (AS 44.62) for

9 (1) setting apart game reserve areas, refuges, and sanctu-
10 aries in the water or on the land of the state over which it has
11 jurisdiction, subject to the approval of the legislature;

12 (2) establishing open and closed seasons and areas for the
13 taking of game;

14 (3) establishing the means and methods employed in the
15 pursuit, capture, and transport of game, including regulations, con-
16 sistent with resource conservation and development goals, establishing
17 means and methods that may be employed by persons with physical
18 disabilities;

19 (4) setting quotas, bag limits, harvest levels, and sex,
20 age, and size limitations on the taking of game;

21 (5) classifying game as game birds, song birds, big game
22 animals, fur bearing animals, predators, or other categories;

23 (6) methods, means, and harvest levels necessary to control
24 predation and competition among game in the state;

25 (7) watershed and habitat improvement, and management,
26 conservation, protection, use, disposal, propagation, and stocking of
27 game;

28 (8) prohibiting the live capture, possession, transport, or
29 release of native or exotic game or their eggs;

1 (9) establishing the times and dates during which the
2 issuance of game licenses, permits, and registrations and the transfer
3 of permits and registrations between registration areas and game
4 management units or subunits is allowed;

5 (10) regulating sport hunting, [AND] subsistence hunting,
6 and nonrural subsistence hunting as needed for the conservation,
7 development, and utilization of game.

8 * Sec. 8. AS 16.05.258(d) is amended to read:

9 (d) If the harvestable portion of a stock or population is
10 sufficient to accommodate consumptive uses in addition to subsistence
11 uses, the [THE] boards may adopt regulations consistent with this
12 section that authorize taking for nonsubsistence uses a stock or
13 population identified under (a) of this section. Those regulations
14 may provide for the taking of all or a portion of the remainder of the
15 harvestable portion of the stock or population for nonrural subsis-
16 tence uses, and may provide that the taking has a preference over the
17 taking of the stock or population for other nonsubsistence uses. If
18 the harvestable portion of a stock or population that is available for
19 nonrural subsistence uses is not sufficient to accommodate all nonru-
20 ral subsistence uses, the Subsistence Board shall determine which
21 individuals eligible to take the stock or population for nonrural
22 subsistence uses are allowed to participate in the taking for nonrural
23 subsistence uses on the basis of

24 (1) customary and direct dependence on the stock or popu-
25 lation as the mainstay of livelihood; and

26 (2) availability of alternative resources.

27 * Sec. 9. AS 16.05.940(26) is amended to read:

28 (26) "rural area" means a community or area of the state
29 identified by the Subsistence Board under AS 16.05.231(b) [IN WHICH

1 THE NONCOMMERCIAL, CUSTOMARY, AND TRADITIONAL USE OF FISH OR GAME FOR
2 PERSONAL OR FAMILY CONSUMPTION IS A PRINCIPAL CHARACTERISTIC OF THE
3 ECONOMY OF THE COMMUNITY OR AREA];

4 * Sec. 10. AS 16.05.940 is amended by adding new paragraphs to read:

5 (36) "nonrural subsistence fishing" means the taking of,
6 fishing for, or possession of fish, shellfish, or other fisheries
7 resources by a resident who is not domiciled in a rural area of the
8 state for nonrural subsistence uses with gill net, seine, fish wheel,
9 long line, or other means defined by the Board of Fisheries;

10 (37) "nonrural subsistence hunting" means the taking of,
11 hunting for, or possession of game by a resident who is not domiciled
12 in a rural area of the state for nonrural subsistence uses;

13 (38) "nonrural subsistence uses" means the noncommercial
14 uses of wild, renewable resources by a resident who is not domiciled
15 in a rural area for direct personal or family consumption as food,
16 shelter, fuel, clothing, tools, or transportation, or for sharing for
17 personal or family consumption; in this paragraph, "family" means
18 persons related by blood, marriage, or adoption, and a person living
19 in the household on a permanent basis.

20 * Sec. 11. This Act takes effect on the effective date of a constitu-
21 tional amendment relating to subsistence that is approved by the voters in
22 the 1990 general election.