

BY SEN. STURGULEWSKI

1 IN THE SENATE

2 SENATE BILL NO. 554

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 hunting and fishing
7 and amending the definition of 'rural;' and providing
8 for an effective date."

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

10 * Section. 1. AS 16.05.251(a) is amended to read:

11 Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES. (a) The
12 Board of Fisheries may adopt regulations it considers advisable in
13 accordance with the Administrative Procedure Act (AS 44.62) for

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

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

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

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

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

28 (6) classifying as commercial fish, sport fish, personal
29 use fish, [SUBSISTENCE FISH,] or predators or other categories

1 essential for regulatory purposes;

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

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

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

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

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

18 (12) regulating commercial, sport, [SUBSISTENCE,] and per-
19 sonal use fishing as needed for the conservation, development, and
20 utilization of fisheries;

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

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

27 (B) will not unduly disrupt the fishery;

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

29 (D) can be coordinated with observer programs of other

1 agencies, including the National Marine Fisheries Service, North
2 Pacific Fishery Management Council, and the International Pacific
3 Halibut Commission;

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

6 * Sec. 2. AS 16.05.251(d) is amended to read:

7 (d) Regulations adopted under (a) of this section must, consis-
8 tent with sustained yield [AND THE PROVISIONS OF AS 16.05.258], pro-
9 vide a fair and reasonable opportunity for the taking of fishery
10 resources by personal use, sport, and commercial fishermen.

11 * Sec. 3. AS 16.05.255(a) is amended to read:

12 (a) The Board of Game may adopt regulations it considers advis-
13 able in accordance with the Administrative Procedure Act (AS 44.62)
14 for

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

18 (2) establishing open and closed seasons and areas for the
19 taking of game;

20 (3) establishing the means and methods employed in the
21 pursuit, capture, and transport of game, including regulations, con-
22 sistent with resource conservation and development goals, establishing
23 means and methods that may be employed by persons with physical dis-
24 abilities;

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

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

29 (6) methods, means, and harvest levels necessary to control

1 predation and competition among game in the state;

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

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

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

11 (10) regulating sport hunting [AND SUBSISTENCE HUNTING] as
12 needed for the conservation, development, and utilization of game.

13 * Sec. 4. AS 16.05.255(d) is amended to read:

14 (d) Regulations adopted under (a) of this section shall provide
15 that [, CONSISTENT WITH THE PROVISIONS OF AS 16.05.258,] the taking of
16 moose, deer, elk, and caribou by residents for personal or family
17 consumption has preference over taking by nonresidents.

18 * Sec. 5. AS 16.05.258 is amended by adding a new subsection to read:

19 (g) The Board of Fisheries and the Board of Game shall determine
20 which areas of the state are rural in character based on fish and
21 wildlife use, on the development and diversity of the economy, trans-
22 portation systems, communication links, community infrastructure,
23 educational and cultural institutions, and government institutions,
24 and on other similar factors that may be established by regulation.
25 The boards shall consider in the aggregate communities or areas that
26 are economically, socially, and communally integrated. A community or
27 area with a population of

28 (1) 2,500 or less is rural unless the community or area
29 possesses significant characteristics of a nonrural nature or is part

of an urbanized area;

(2) more than 2,500 but less than 7,000 may be rural or nonrural, depending on its characteristics;

(3) 7,000 or more is nonrural unless the community or area possesses significant characteristics of a rural nature.

* Sec. 6. AS 16.05.940(5) is amended to read:

(5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit [,] or by sale, barter, trade, or in commercial channels; [THE FAILURE TO HAVE A VALID SUBSISTENCE PERMIT IN POSSESSION, IF REQUIRED BY STATUTE OR REGULATION, IS CONSIDERED PRIMA FACIE EVIDENCE OF COMMERCIAL FISHING IF COMMERCIAL FISHING GEAR AS SPECIFIED BY REGULATION IS INVOLVED IN THE TAKING, FISHING FOR, OR POSSESSION OF FISH, SHELLFISH, OR OTHER FISH RESOURCES;]

* Sec. 7. AS 16.05.940(26) is amended to read:

(26) "rural area" means a community or area of the state designated as "rural" under AS 16.05.258(g) [IN WHICH THE NONCOMMERCIAL, CUSTOMARY, AND TRADITIONAL USE OF FISH OR GAME FOR PERSONAL OR FAMILY CONSUMPTION IS A PRINCIPAL CHARACTERISTIC OF THE ECONOMY OF THE COMMUNITY OR AREA];

* Sec. 8. The division of legal services of the Legislative Affairs Agency shall prepare a bill providing for the repeal of secs. 1 - 4, 6, 9, 10, and 12 of this Act. The bill shall be presented to the House and Senate Rules Committees for introduction on the first day of the First Session of the Eighteenth Alaska State Legislature.

* Sec. 9. The division of legal services of the Legislative Affairs Agency shall prepare a bill containing appropriate amendments to the Alaska Statutes, outside of AS 16.05, correcting references to "subsistence," "subsistence uses," "subsistence users," and similar terms in order to conform to the provisions of this Act. The bill shall be presented to the House and Senate Rules Committees for introduction on the first day of the First Session of the Nineteenth Alaska State Legislature.

* Sec. 10. AS 16.05.090(c), 16.05.094, 16.05.258, 16.05.259, 16.05.-330(c), 16.05.930(e), 16.05.940(26), 16.05.940(29), 16.05.940(30), and 16.05.940(31) are repealed.

* Sec. 11. Sections 5, 7, 8, and 9 of this Act take effect on the effective date of a constitutional amendment relating to subsistence that is approved by the voters in the 1990 general election.

* Sec. 12. Except as provided in sec. 11 of this Act, this Act takes effect on the last legislative day of the Second Regular Session of the Eighteenth Alaska State Legislature.

[Note: official copy of pages 5 and 6 are missing from the original.]