

BY SEN. JONES, Faiks

1 IN THE SENATE

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SENATE BILL NO. 556

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - FIRST SPECIAL SESSION

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A BILL

6 For an Act entitled: "An Act relating to subsistence hunting and fishing
7 and sport fishing, trapping, and hunting licenses;
8 and providing for subsistence appeals boards."

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

10 * Section 1. PURPOSE. It is the purpose of this Act to

11 (1) ensure maximum sustained yield of fish and wildlife in
12 accordance with scientific management principles;

13 (2) recognize subsistence uses of fish and wildlife as valid
14 uses of those resources;

15 (3) encourage residents to provide advice concerning regulation
16 of subsistence uses of local fish and wildlife during periods of reduced
17 availability of fish and wildlife;

18 (4) ensure the continued availability of fish and wildlife
19 resources for subsistence use to those residents who are most dependent on
20 those resources;

21 (5) provide subsistence users who are aggrieved by the acts or
22 decisions of the Board of Fisheries or Board of Game an opportunity to
23 administratively appeal those acts or decisions.

24 * Sec. 2. AS 16.05.258(a) is amended to read:

25 (a) The Board of Fisheries and the Board of Game shall identify
26 the fish stocks and game populations, or portions of stocks and popu-
27 lations, that are [CUSTOMARILY AND TRADITIONALLY] used for subsistence
28 in each [RURAL] area identified by the boards.

29 * Sec. 3. AS 16.05.258(c) is repealed and reenacted to read:

1 (c) The boards shall adopt subsistence fishing and subsistence
2 hunting regulations for each stock and population for which a harvest-
3 able portion is determined to exist under (b)(1) of this section. If
4 it is necessary to restrict subsistence fishing or subsistence hunting
5 in order to ensure sustained yield or to continue subsistence uses,
6 then the boards shall distinguish among subsistence users by applying
7 the following criteria:

8 (1) direct dependence on the fish stock or game population;
9 and

10 (2) availability of alternative resources.

11 * Sec. 4. AS 16.05.258 is amended by adding a new subsection to read:

12 (g) If a board determines on the basis of scientific information
13 provided by the department that the harvest of a fish stock or game
14 population identified under (a) of this section must be reduced in
15 order to allow the stock or population to rebuild to maximum sustained
16 yield levels, the board shall designate the area in which the stock or
17 population is present as an intensive management area for that stock
18 or population. Within an intensive management area, the department
19 shall closely monitor the rebuilding of the stock or population and
20 the harvests from the stock and population and shall take actions, as
21 are appropriate and within its authority, to promote the rebuilding of
22 the stock or population to maximum sustained yield levels as soon as
23 possible. The boards shall adopt appropriate regulations to promote
24 rebuilding of the stock or population to maximum sustained yield
25 levels as soon as possible in order to provide and ensure a reasonable
26 opportunity for subsistence uses of the stock or population. The
27 boards shall receive information, data, and regulatory proposals from
28 advisory committees and local communities relevant to the management
29 of a stock or population for which an intensive management area has

1 been established.

2 * Sec. 5. AS 16.05 is amended by adding a new section to read:

3 Sec. 16.05.265. SUBSISTENCE APPEALS BOARDS. (a) There is
4 created in the department the Subsistence Fishing Appeals Board and
5 the Subsistence Hunting Appeals Board. Each appeals board consists of
6 15 members appointed by the governor and confirmed by the legislature.
7 Each member serves at the pleasure of the governor for a term of five
8 years. Each member serves until a successor is appointed. An ap-
9 pointment to fill a vacancy on an appeals board is for the remainder
10 of the unexpired term and shall be filled in the same manner as the
11 original appointment. Members of the boards serve without compen-
12 sation but are entitled to per diem and travel expenses authorized for
13 boards under AS 39.20.180.

14 (b) The Subsistence Fishing Appeals Board consists of three
15 members appointed from each of the following classes of persons:

- 16 (1) subsistence fishers who live in a rural area;
17 (2) subsistence fishers who live in an urban area;
18 (3) commercial fishers;
19 (4) sport fishers; and
20 (5) fishery biologists.

21 (c) The Subsistence Hunting Appeals Board consists of three
22 members appointed from each of the following classes of persons:

- 23 (1) subsistence hunters who live in a rural area;
24 (2) subsistence hunters who live in an urban area;
25 (3) persons who hold any class of guide-outfitter's license
26 under AS 08.54 or who are commercial trappers;
27 (4) sport hunters; and
28 (5) game biologists.

29 (d) The governor shall appoint the chair of each appeals board.

1 (e) A person who is a subsistence fisher or hunter and who is
2 aggrieved by an act or decision of the Board of Fisheries or Board of
3 Game directly affecting subsistence fishing or hunting may appeal the
4 act or decision to the appropriate appeals board within 30 days after
5 the act or decision is final. An appeal of an act or decision of the
6 Board of Fisheries shall be made to the Subsistence Fishing Appeals
7 Board. An appeal of an act or decision of the Board of Game shall be
8 made to the Subsistence Hunting Appeals Board. An appeal of an act or
9 decision of the Board of Fisheries and Board of Game acting jointly
10 may be made to either appeals board.

11 (f) Upon receipt of an appeal from an act or decision of the
12 Board of Fisheries or Board of Game, the chair of the appropriate
13 appeals board shall appoint an appeals panel from members of the
14 appeals board to hear the appeal. An appeals panel consists of one
15 member appointed from each of the five classes of appeals board
16 members set out in (b) or (c) of this section. The chair of the
17 appeals board shall appoint the chair of the appeals panel. Appeals
18 of an act or decision of a board brought by separate parties may be
19 consolidated with the approval of the chair of the appeals board.
20 Other persons aggrieved by an act or decision of a board may partici-
21 pate in an appeal currently before an appeals panel to the extent
22 provided by regulations adopted by the appeals board. Upon completion
23 of the appeals panel's review of the appeal, the panel may sustain the
24 act or decision of the board, return the issue to the board with
25 guidance to the board to assist the board in its reconsideration of
26 the matter, or annul the act or decision of the board. The decision
27 of the appeals panel must contain findings of fact and be in writing.

28 (g) A party who is aggrieved by the decision of an appeals panel
29 may appeal to the chair of the appeals board for a review of the

1 decision of the appeals panel by the appeals board. An appeal of the
2 decision of an appeals panel shall be made within 30 days after the
3 written decision of an appeals panel is issued. An appeals board may
4 sustain the decision of the appeals panel, return the matter to the
5 appeals panel with guidance to assist the panel in its reconsideration
6 of the matter, or make a separate determination of the matter.

7 (h) The appeal of an act or decision of the Board of Fisheries
8 and Board of Game acting jointly shall be referred to a joint appeals
9 panel consisting of an appeals panel appointed from each appeals
10 board. Upon receipt of an appeal from an act or decision of the
11 boards acting jointly the chair of the appeals board shall inform the
12 chair of the other appeals board of the receipt of the appeal. The
13 chair of each appeals board shall appoint an appeals panel to serve on
14 the joint appeals panel. The chairs of the appeals boards shall
15 jointly appoint a chair of the joint appeals panel. Appeals of an act
16 or decision of the boards acting jointly brought by separate parties
17 may be consolidated with the concurrence of the chairs of the appeals
18 boards. Other persons aggrieved by an act or decision of the boards
19 acting jointly may participate in an appeal currently before a joint
20 appeals panel to the extent provided by regulations adopted by the
21 appeals boards. Upon completion of the joint appeals panel's review
22 of the appeal, the joint panel may sustain the act or decision of the
23 boards, return the issue to the boards with guidance to the boards to
24 assist the boards in their reconsideration of the matter, or annul the
25 act or decision of the boards. The decision of the joint appeals
26 panel must contain findings of fact and be in writing. A party who is
27 aggrieved by the decision of a joint appeals panel may appeal to the
28 chair of both appeals boards for a review of the decision of the joint
29 appeals panel by both appeals boards acting jointly. An appeal of the

1 decision of a joint appeals panel shall be made within 30 days after
2 the written decision of the joint appeals panel is issued. The ap-
3 peals boards acting jointly may sustain the decision of the joint
4 appeals panel, return the matter to the joint appeals panel with
5 guidance to assist the panel in its reconsideration of the matter, or
6 make a separate determination of the matter.

7 (i) A party aggrieved by a final decision of an appeals board or
8 both appeals boards acting jointly may appeal the decision to the
9 superior court under AS 44.62.560 - 44.62.570.

10 (j) Each appeals board may adopt regulations governing the
11 conduct, practice, and procedure of the appeals board and its appeals
12 panels that are consistent with due process. The appeals boards
13 acting jointly may adopt regulations governing the conduct, practice,
14 and procedures of the appeals boards when acting jointly and of joint
15 appeals panels. Except as otherwise provided by this section or by
16 regulations adopted under this subsection, the appeals boards and
17 appeals panels, acting alone or jointly, are subject to the Adminis-
18 trative Procedure Act (AS 44.62).

19 (k) Each appeals board may employ staff as necessary to assist
20 the board in the performance of its duties.

21 (l) In this section

22 (1) "appeals board" means either the Subsistence Fishing
23 Appeals Board or the Subsistence Hunting Appeals Board;

24 (2) "board" means either the Board of Fisheries or Board of
25 Game unless the context requires another meaning;

26 (3) "party" has the meaning given in AS 44.62.640.

27 * Sec. 6. AS 16.05.330 is amended by adding a new subsection to read:

28 (d) A person who obtains a sport fishing, trapping, or hunting
29 license shall designate on the license those game management units in

1 which the person intends to hunt or trap and the sport fishing regu-
2 latory management areas in which the person intends to sport fish. A
3 person may designate additional game management units and sport fish-
4 ing regulatory management areas on a valid existing license. The
5 department shall adopt regulations to implement this subsection. A
6 person may not engage in sport fishing, trapping, or hunting in a game
7 management unit or sport fishing regulatory management area without
8 having physical possession of the appropriate license bearing a desig-
9 nation for that unit or area.

10 * Sec. 7. AS 16.05.340 is amended by adding a new subsection to read:

11 (g) In addition to the sport fishing, trapping, and hunting
12 license fees set out in this section, a person who obtains a sport
13 fishing, trapping, or hunting license shall pay \$.50 for each game
14 management unit and sport fishing regulatory management area desig-
15 nated on each license. Additional game management units and sport
16 fishing regulatory management areas may be designated on a valid
17 existing license for \$.50 for each additional unit or area.

18 * Sec. 8. AS 16.05.940(29) is amended to read:

19 (29) "subsistence fishing" means the taking of, fishing for,
20 or possession of fish, shellfish, or other fisheries resources by a
21 resident [DOMICILED IN A RURAL AREA] of the state for subsistence uses
22 with gill net, seine, fish wheel, long line, or other means defined by
23 the Board of Fisheries;

24 * Sec. 9. AS 16.05.940(30) is amended to read:

25 (30) "subsistence hunting" means the taking of, hunting for,
26 or possession of game by a resident [DOMICILED IN A RURAL AREA] of the
27 state for subsistence uses by means defined by the Board of Game;

28 * Sec. 10. AS 16.05.940(31) is amended to read:

29 (31) "subsistence uses" means the noncommercial, customary

1 and traditional uses of wild, renewable resources by a resident [DO-
2 MICILED IN A RURAL AREA] of the state for direct personal or family
3 consumption as food, shelter, fuel, clothing, tools, or transporta-
4 tion, for the making and selling of handicraft articles out of non-
5 edible by-products of fish and wildlife resources taken for personal
6 or family consumption, and for the customary trade, barter, or sharing
7 for personal or family consumption; in this paragraph, "family" means
8 persons related by blood, marriage, or adoption, and a person living
9 in the household on a permanent basis;

10 * Sec. 11. AS 39.50.200(b) is amended by adding new paragraphs to read:

11 (52) Subsistence Fishing Appeals Board (AS 16.05.265(a));

12 (53) Subsistence Hunting Appeals Board (AS 16.05.265(a)).

13 * Sec. 12. AS 44.62.330(a) is amended by adding new paragraphs to read:

14 (57) Subsistence Fishing Appeals Board;

15 (58) Subsistence Hunting Appeals Board.

16 * Sec. 13. The initially appointed members of the Subsistence Fishing
17 Appeals Board and the Subsistence Hunting Appeals Board, established under
18 sec. 5 of this Act, shall be appointed by the governor as follows: three
19 members serve for one year, three members serve for two years, three mem-
20 bers serve for three years, three members serve for four years, and three
21 members serve for five years.

22 * Sec. 14. AS 16.05.940(26) is repealed.