

SENATE BILL NO. 485

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SPECIAL SESSION

BY SENATORS ADAMS, Hoffman

Introduced: 6/15/92

Referred: Senate Committee of the Whole

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taking of fish and game for subsistence; and providing
2 for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. FINDINGS.** The legislature finds that

5 (1) the overwhelming majority of residents of rural areas of the state, both
6 Alaska Natives and non-Natives, rely upon the subsistence use of fish and game for
7 nutritional, economic, social, and cultural purposes;

8 (2) residents of rural areas of the state have few nutritional and economic
9 alternatives for maintaining their livelihood other than subsistence uses of fish and wildlife;

10 (3) the state's fish and game are not unlimited and cannot provide for every
11 desired use, now or in the future; competition for and the level of effort on these resources
12 have required the legislature to establish a preference for subsistence among the various
13 beneficial uses of fish and game in the state; and

14 (4) residents of urban areas of the state have nutritional and economic

1 alternatives for maintaining their livelihood other than subsistence uses of fish and wildlife,
2 though many residents of urban areas do rely upon the taking of fish and wildlife for
3 nutritional and cultural purposes.

4 * Sec. 2. AS 16.05.070 is amended to read:

5 Sec. 16.05.070. REGULATIONS AS EVIDENCE. Regulations of the boards
6 of fisheries and game, of the Subsistence Board, and of the commissioner, including
7 emergency openings and closures, are admissible as evidence in the courts of the state
8 in accordance with the Administrative Procedure Act (AS 44.62).

9 * Sec. 3. AS 16.05.080 is amended to read:

10 Sec. 16.05.080. LIMITATION OF POWER. Nothing in this chapter
11 authorizes the department, the Subsistence Board, or the boards of fisheries and
12 game to change the amount of fees or licenses.

13 * Sec. 4. AS 16.05.094 is amended to read:

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

16 (1) compile existing data and conduct studies to gather information,
17 including data from subsistence users and urban subsistence users, on all aspects of
18 the role of subsistence hunting and fishing in the lives of the rural and urban
19 residents of the state;

20 (2) quantify the amount, nutritional value, and extent of dependence
21 on food acquired through subsistence hunting and fishing by rural and urban
22 residents of the state;

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

25 (4) assist the department, the Subsistence Board, the Board of
26 Fisheries, and the Board of Game in determining what uses of fish and game, as well
27 as which users and what methods, should be termed subsistence uses, users, and
28 methods;

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

1 (6) make recommendations to the Subsistence Board [BOARD OF
2 GAME AND THE BOARD OF FISHERIES] regarding adoption, amendment, and
3 repeal of regulations affecting subsistence hunting and fishing and urban subsistence
4 hunting and fishing;

5 (7) participate with other divisions in the preparation of statewide and
6 regional management plans so that those plans recognize and incorporate the needs
7 of rural and urban subsistence users of fish and game.

8 * Sec. 5. AS 16.05.094 is amended by adding a new subsection to read:

9 (b) The section of subsistence hunting and fishing shall provide staff for the
10 Subsistence Board.

11 * Sec. 6. AS 16.05.221 is amended by adding a new subsection to read:

12 (c) There is created the Subsistence Board consisting of one member from
13 each subsistence region established under AS 16.05.260(b). The regional council of
14 each subsistence region shall submit the names of three persons to serve on the board
15 from its respective region. The governor shall appoint members of the board from
16 among persons nominated by the regional council within 30 days after the governor
17 receives the list of persons nominated by a regional council to fill a vacancy on the
18 board. If the governor rejects all persons nominated by a regional council, the
19 regional council shall submit to the governor a list of three new persons to fill the
20 vacancy on the board. Persons nominated by a regional council must be subsistence
21 users and residents of the subsistence region from which they are appointed.
22 Members of the board shall be appointed to staggered three-year terms, subject to
23 confirmation by a majority of the members of the legislature in joint session. The
24 commissioner is not a member of the board, but shall be ex officio secretary.

25 * Sec. 7. AS 16.05 is amended by adding a new section to read:

26 Sec. 16.05.231. AUTHORITY OF SUBSISTENCE BOARD. (a) The
27 Subsistence Board shall identify by regulation

28 (1) communities and areas of the state that qualify as rural areas under
29 this paragraph as follows:

30 (A) a community or area with a population of 2,500 persons
31 or less is a rural area unless the board determines that the community or area

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possesses significant characteristics of an urban nature or is a part of an urbanized area;

(B) a community or area with a population of more than 2,500 persons but not more than 7,000 persons shall be classified as a rural area or urban area according to the characteristics identified under (E) of this paragraph; the board shall classify communities and areas of more than 2,500 persons but not more than 7,000 persons before classifying other communities and areas;

(C) a community or area with a population of more than 7,000 persons is presumed to be an urban area, unless the board determines that the community or area should be classified as a rural area because the community or area possesses significant characteristics of a rural area;

(D) the population of a community or area is determined according to the most recent census conducted by the United States Bureau of the Census as updated by the Department of Labor;

(E) community or area characteristics must be considered in determining whether the community or area is a rural area or urban area; the characteristics that may be considered include fish and game use, development and diversity of the economy, transportation, communication links, community infrastructure, and educational, cultural, and governmental institutions;

(F) communities or areas that are economically, socially, and communally integrated must be considered in the aggregate;

(2) for each rural and urban area of the state,

(A) the fish stocks and game populations that are taken for subsistence uses or urban subsistence uses;

(B) the customary and traditional patterns of taking and use of fish stocks and game populations taken for subsistence uses or urban subsistence uses;

(C) how much of the harvestable portion of a fish stock or game population identified in (A) of this paragraph is needed to satisfy subsistence uses and urban subsistence uses of the stock or population;

1 (3) the criteria for identifying those residents who qualify as urban
2 subsistence users because they

3 (A) are residents of a community or area that has a nutritional
4 or cultural dependence upon wild renewable resources for urban subsistence
5 uses; or

6 (B) can individually demonstrate that they have a nutritional
7 or cultural dependence upon wild renewable resources for urban subsistence
8 uses.

9 (b) The Subsistence Board shall adopt regulations necessary to provide for
10 subsistence fishing and hunting and urban subsistence fishing and hunting under this
11 section and AS 16.05.258.

12 (c) For each fish stock and game population, or portion of a stock or
13 population, that is taken for subsistence uses and identified under (a)(2) of this
14 section, and when necessary to implement the provisions of AS 16.05.258(c), the
15 Subsistence Board shall identify those residents who

16 (1) engage in subsistence uses of the stock or population;

17 (2) have the greatest customary and direct dependence on the
18 subsistence uses of fish and game as the mainstay of livelihood;

19 (3) live closest to the stock or population; and

20 (4) have the least availability of alternative resources.

21 (d) For each fish stock and game population, or portion of a stock or
22 population, that is taken for urban subsistence uses, identified under (a)(2) of this
23 section, and when necessary to implement the provisions of AS 16.05.258(f), the
24 Subsistence Board shall identify residents who

25 (1) engage in urban subsistence uses of the stock or population;

26 (2) have the greatest customary and direct dependence on the
27 subsistence uses of fish and wildlife as the mainstay of livelihood;

28 (3) live closest to the stock or population; and

29 (4) have the least availability of alternative resources.

30 (e) In this section, "community" means a group of people who can
31 demonstrate a sustained interaction or significant relationship that differentiate

1 members of the group from nonmembers; "community" shall be construed in the
2 context of the history, geography, and cultural organization of the group.

3 * Sec. 8. AS 16.05.251(a) is amended to read:

4 (a) Subject to the authority of the Subsistence Board under AS 16.05.231
5 and to AS 16.05.258, the [THE] Board of Fisheries may adopt regulations it
6 considers advisable in accordance with the Administrative Procedure Act (AS 44.62)
7 for

8 (1) setting apart fish reserve areas, refuges, and sanctuaries in the
9 waters of the state over which it has jurisdiction, subject to the approval of the
10 legislature;

11 (2) establishing open and closed seasons and areas for the taking of
12 fish; if consistent with resource conservation and development goals, the board may
13 adopt regulations establishing restricted seasons and areas necessary for persons 60
14 years of age and older to participate in sport or [,] personal use [, OR
15 SUBSISTENCE] fishing;

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

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

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

22 (6) classifying as commercial fish, sport fish, personal use fish,
23 [SUBSISTENCE FISH,] or predators or other categories essential for regulatory
24 purposes;

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

27 (8) investigating and determining the extent and effect of disease,
28 predation, and competition among fish in the state, exercising control measures
29 considered necessary to the resources of the state;

30 (9) prohibiting and regulating the live capture, possession, transport,
31 or release of native or exotic fish or their eggs;

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

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

7 (12) regulating commercial, sport, [SUBSISTENCE,] and personal use
8 fishing as needed for the conservation, development, and utilization of fisheries;

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

13 (A) is the only practical data-gathering or enforcement
14 mechanism for that fishery;

15 (B) will not unduly disrupt the fishery;

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

17 (D) can be coordinated with observer programs of other
18 agencies, including the National Marine Fisheries Service, North Pacific
19 Fishery Management Council, and the International Pacific Halibut
20 Commission;

21 (14) establishing nonexclusive, exclusive, and super exclusive
22 registration and use areas for regulating commercial fishing.

23 * Sec. 9. AS 16.05.255(a) is amended to read:

24 (a) Subject to the authority of the Subsistence Board under AS 16.05.231
25 and to AS 16.05.258, the [THE] Board of Game may adopt regulations it considers
26 advisable in accordance with the Administrative Procedure Act (AS 44.62) for

27 (1) setting apart game reserve areas, refuges, and sanctuaries in the
28 water or on the land of the state over which it has jurisdiction, subject to the approval
29 of the legislature;

30 (2) establishing open and closed seasons and areas for the taking of
31 game;

1 (3) establishing the means and methods employed in the pursuit,
2 capture, and transport of game, including regulations, consistent with resource
3 conservation and development goals, establishing means and methods that may be
4 employed by persons with physical disabilities;

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

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

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

11 (7) watershed and habitat improvement, and management,
12 conservation, protection, use, disposal, propagation, and stocking of game;

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

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

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

20 * Sec. 10. AS 16.05.258 is repealed and reenacted to read:

21 Sec. 16.05.258. SUBSISTENCE AND ALLOCATION OF FISH AND
22 GAME. (a) A combined board shall determine what portion, if any, of the fish
23 stocks and game populations identified under AS 16.05.231(a)(2) can be harvested
24 consistent with sustained yield.

25 (b) The Subsistence Board shall determine how much of the harvestable
26 portion of a stock or population is needed to satisfy the subsistence uses of the stock
27 and population.

28 (c) The Subsistence Board shall adopt subsistence fishing and hunting
29 regulations for each stock and population for which a harvestable portion is
30 determined to exist under (a) of this section. Regulations adopted by the Subsistence
31 Board under this subsection shall provide, to the extent consistent with sustained

1 yield, for the customary and traditional uses and practices of residents who engage in
2 subsistence use in a manner that will result in the least adverse effect upon those uses.
3 If the harvestable portion of a stock or population is not sufficient to accommodate
4 all consumptive uses of the stock or population, but is sufficient to accommodate
5 subsistence uses of the stock or population, then nonwasteful subsistence uses shall
6 be accorded a preference over other consumptive uses, including urban subsistence
7 uses, of the stock or population. If it is necessary to restrict subsistence fishing or
8 subsistence hunting in order to assure sustained yield or to continue subsistence uses
9 of the stock or population, then the preference for subsistence uses shall be limited,
10 and the Subsistence Board shall distinguish among subsistence users, by applying the
11 following criteria:

- 12 (1) customary and direct dependence on the fish stock or game
13 population as the mainstay of livelihood;
- 14 (2) local residency; and
- 15 (3) availability of alternative resources.

16 (d) The Subsistence Board shall determine how much of the harvestable
17 portion of a stock or population is needed to provide for the urban subsistence uses
18 of the stock or population. If the harvestable portion of a stock or population
19 identified under AS 16.05.231(a)(2) is sufficient to accommodate consumptive uses
20 in addition to subsistence uses, the Subsistence Board shall adopt regulations
21 consistent with this section that authorize the taking of the stock or population for
22 urban subsistence uses. The Board of Fisheries or Board of Game, as appropriate,
23 may adopt regulations consistent with this section that authorize the taking of the
24 stock or population for other consumptive uses.

25 (e) Regulations adopted by the Board of Fisheries or the Board of Game
26 under (d) of this section may not authorize a level of nonsubsistence hunting or
27 fishing that would deny subsistence users the opportunity to satisfy subsistence uses
28 or urban subsistence uses due to overcrowding in harvest areas or disruption of stocks
29 or populations.

30 (f) Regulations adopted under (d) of this section shall provide for the taking
31 of all, or a portion, of the remainder of the harvestable portion of a stock or

1 population for urban subsistence uses; and that the taking of a stock or population for
2 urban subsistence uses has a preference over the taking of the stock or population for
3 nonsubsistence consumptive uses. If the harvestable portion of a stock or population
4 available for urban subsistence uses is not sufficient to accommodate all urban
5 subsistence users, the Subsistence Board shall determine which urban subsistence
6 users may participate in the taking of the stock or population for urban subsistence
7 uses on the basis of

8 (1) customary and direct dependence on the stock or population as the
9 mainstay of livelihood;

10 (2) local residency; and

11 (3) availability of alternative resources.

12 (g) Subject to (c) of this section, the taking of fish or game authorized under
13 this section is subject to reasonable regulation of seasons, catch or bag limits, and
14 methods and means by the Subsistence Board. The taking and use of fish and game
15 authorized under this section is subject to AS 16.05.831 and AS 16.30.

16 (h) If the harvestable portion of a stock or population is insufficient to provide
17 for subsistence uses, urban subsistence uses, and nonsubsistence consumptive uses, the
18 department and advisory committee members representing affected subsistence users,
19 urban subsistence users, and nonsubsistence users shall develop a cooperative
20 management plan to facilitate the recovery of the stock or population to allow for
21 increased consumptive use of the stock or population. The cooperative management
22 plan must contain recommendations to the appropriate boards for necessary changes
23 in regulations. If the subsistence uses or urban subsistence uses of a stock or
24 population has been eliminated to achieve sustained yield, the Subsistence Board shall
25 adopt regulations to allow subsistence harvest of the stock or population as soon as
26 the combined board has determined there is a harvestable portion consistent with
27 sustained yield.

28 (i) In this section, "combined board" means the Subsistence Board and the
29 Board of Fisheries, acting jointly, in regard to fishery resources and the Subsistence
30 Board and the Board of Game, acting jointly, in regard to game resources.

31 * Sec. 11. AS 16.05.260 is amended to read:

1 **Sec. 16.05.260. ADVISORY COMMITTEES.** The Subsistence Board, the
2 Board of Fisheries, and the Board of Game may adopt regulations they consider
3 advisable in accordance with the Administrative Procedure Act (AS 44.62)
4 establishing, at places in the state designated by the individual boards, advisory
5 committees to be composed of persons well informed on the fish or game resources
6 of the locality. The boards shall set the number and terms of each of the members
7 of the advisory committees, shall delegate one member of each committee as chair
8 [CHAIRMAN], and shall give the chair [CHAIRMAN] authority to hold public
9 hearings on fish or game matters. Recommendations from the advisory committees
10 shall be forwarded to the appropriate board for their consideration but if the
11 Subsistence Board, the Board of Fisheries, or the Board of Game chooses not to
12 follow the recommendations of the local advisory committee the appropriate board
13 shall inform the appropriate advisory committee of this action and state the reasons
14 for not following the recommendations. The commissioner shall delegate authority
15 to advisory committees for emergency closures during established seasons. The
16 commissioner is empowered to set aside and make null and void only opening of
17 seasons set by the advisory committees under this section. The appropriate board
18 shall adopt the necessary regulations governing these closures.

19 * **Sec. 12.** AS 16.05.260 is amended by adding new subsections to read:

20 (b) Board of Fisheries and Board of Game, acting jointly, shall divide the
21 state into at least six subsistence regions. The number and boundaries of the regions
22 shall be sufficient to assure that regional differences in subsistence uses and urban
23 subsistence uses of fish and game are adequately accommodated. The commissioner
24 shall establish a regional council in each subsistence region. The membership of each
25 regional council consists of the chair, or the chair's designee, of each advisory
26 committee within the region.

27 (c) Each regional council, in consultation with the section of subsistence
28 hunting and fishing, shall provide recommendations to the Subsistence Board on the
29 identifications and regulations required under AS 16.05.231 and 16.05.258. The
30 Subsistence Board shall adopt a recommendation unless the recommendation is not
31 supported by substantial evidence presented during the course of its proceedings,

1 violates recognized principles of fish and wildlife conservation, or would be
2 detrimental to the satisfaction of subsistence needs. If the Subsistence Board does not
3 follow the recommendation of a regional council, the board shall return the
4 recommendation with an explanation of its reason for not adopting the
5 recommendation to the regional council for further consideration.

6 * Sec. 13. AS 16.05.270 is amended to read:

7 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER.

8 For the purpose of administering AS 16.05.231, 16.05.251, [AS 16.05.251] and
9 16.05.255, each board may delegate authority to the commissioner to act in its behalf.
10 If there is a conflict between the board and the commissioner on proposed regulations,
11 public hearings shall be held concerning the issues in question. If, after the public
12 hearings, the board and the commissioner continue to disagree, the issue shall be
13 certified in writing by the board and the commissioner to the governor who shall
14 make a decision. The decision of the governor is final.

15 * Sec. 14. AS 16.05.315 is amended to read:

16 Sec. 16.05.315. JOINT BOARD MEETINGS. The Board of Fisheries and the
17 Board of Game, the Subsistence Board and the Board of Fisheries, the Subsistence
18 Board and the Board of Game, or the Subsistence Board, Board of Fisheries, and
19 the Board of Game may hold a joint meeting upon the call of the commissioner or
20 a board to resolve any conflicts in regulations of the boards and to consider matters,
21 as determined by the commissioner or a board, which require the joint consideration
22 of the [BOTH] boards.

23 * Sec. 15. AS 16.05.320 is amended to read:

24 Sec. 16.05.320. QUORUM. A majority of the members of a board constitutes
25 a quorum for the transaction of business, for the performance of any duty, and for the
26 exercise of any power. However, a majority of the full board membership is required
27 to carry all motions, regulations, and resolutions. A majority of the members of the
28 boards convening in a joint meeting [OF FISHERIES AND GAME] constitute a
29 quorum for the transaction of business in a joint board meeting. A majority of the
30 membership of the boards is required to carry all joint motions, regulations, and
31 resolutions of the boards.

1 * **Sec. 16.** AS 16.05.330(c) is amended to read:

2 (c) The Subsistence Board [OF FISHERIES AND THE BOARD OF GAME]
3 may adopt regulations providing for the issuance and expiration of subsistence permits
4 for areas, villages, communities, groups, or individuals as needed for authorizing,
5 regulating, and monitoring the subsistence harvest of fish and game by subsistence
6 users or urban subsistence users. The boards shall adopt these regulations when the
7 subsistence preference requires a reduction in the harvest of a fish stock or game
8 population by subsistence users, urban subsistence users, or nonsubsistence users.

9 * **Sec. 17.** AS 16.05.940(3) is amended to read:

10 (3) "a board" means either the Subsistence Board, the Board of
11 Fisheries, or the Board of Game;

12 * **Sec. 18.** AS 16.05.940(26) is repealed and reenacted to read:

13 (26) "rural area" means a community or area of the state classified as
14 rural by the Subsistence Board;

15 * **Sec. 19.** AS 16.05.940(29) is repealed and reenacted to read:

16 (29) "subsistence fishing" means the taking of, fishing for, or
17 possession of fish, shellfish, or other fisheries resources by a resident domiciled in a
18 rural area of the state for subsistence uses with gill net, seine, fish wheel, long line,
19 or other means defined by the Subsistence Board;

20 * **Sec. 20.** AS 16.05.940(30) is repealed and reenacted to read:

21 (30) "subsistence hunting" means the taking of, hunting for, or
22 possession of game by a resident domiciled in a rural area of the state for subsistence
23 uses by means defined by the Subsistence Board;

24 * **Sec. 21.** AS 16.05.940(31) is repealed and reenacted to read:

25 (31) "subsistence uses" means the noncommercial, customary and
26 traditional uses of wild, renewable resources by a resident domiciled in a rural area
27 of the state for direct personal or family consumption as food, shelter, fuel, clothing,
28 tools, or transportation, for the making and selling of handicraft articles out of
29 nonedible by-products of fish and wildlife resources taken for personal or family
30 consumption, and for the customary trade, barter, or sharing for personal or family
31 consumption; in this paragraph, "family" means persons related by blood, marriage,

1 or adoption, and includes a person living in the household on a permanent basis;

2 * Sec. 22. AS 16.05.940 is amended by adding new paragraphs to read:

3 (36) "urban subsistence fishing" means the taking of, fishing for, or
4 possession of fish, shellfish, or other fisheries resources by a resident who is
5 domiciled in an urban area of the state for urban subsistence uses with gill net, seine,
6 fish wheel, long line, or other means defined by the Subsistence Board;

7 (37) "urban subsistence hunting" means the taking of, hunting for, or
8 possession of game by a resident who is domiciled in an urban area of the state for
9 urban subsistence uses;

10 (38) "urban subsistence uses" means the noncommercial, customary,
11 and traditional uses of wild, renewable resources by a resident of the state who is
12 domiciled in an urban area for direct personal or family consumption as food, shelter,
13 fuel, clothing, tools, or transportation, for the making and selling of handicraft articles
14 out of nonedible by-products of fish and wildlife resources taken for personal or
15 family consumption, and for the customary trade, barter, or for sharing for personal
16 or family consumption; in this paragraph, "family" means persons related by blood,
17 marriage, or adoption, and includes a person living in the household on a permanent
18 basis;

19 (39) "urban area" means a community or area that has not been
20 classified as a rural area by the Subsistence Board.

21 * Sec. 23. AS 16.20.033(f) is amended to read:

22 (f) The department shall allow commercial, sport, and subsistence fishing and
23 hunting within the Yakataga State Game Refuge under regulations of the Subsistence
24 Board, the Board of Fisheries, and the Board of Game. The department shall also
25 permit associated support activities when necessary and consistent with
26 AS 16.20.010 - 16.20.080 to support fishing and hunting permitted under this section,
27 including fish buying operations, aircraft support including landing strips, and off-road
28 vehicle use.

29 * Sec. 24. AS 16.20.510 is amended to read:

30 Sec. 16.20.510. REGULATIONS. The Subsistence Board, the Board of
31 Fisheries, and the Board of Game, where appropriate, shall adopt regulations they

1 consider advisable for conservation and protection purposes governing the taking of
2 fish and game in state fish and game critical habitat areas.

3 * Sec. 25. AS 41.21.174(b) is amended to read:

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

12 * Sec. 26. AS 41.21.176(c) is amended to read:

13 (c) The regulations governing public use of the Shuyak Island State Park shall
14 provide ample access for legal sport and subsistence hunting and fishing, trapping, and
15 recreational uses. Except to protect public safety the commissioner may not restrict
16 the exercise of sport or subsistence fishing or hunting, or trapping permitted under law
17 or under a regulation of the Subsistence Board, the Board of Fisheries, or the Board
18 of Game within the Shuyak Island State Park.

19 * Sec. 27. AS 41.21.183(b) is amended to read:

20 (b) The Department of Fish and Game is responsible for the management of
21 fish and game resources in the Point Bridget State Park, consistent with the
22 sustained-yield principle and the purposes and provisions of this chapter. The
23 Subsistence Board, the Board of Fisheries, the Board of Game, and the commissioner
24 of fish and game are responsible for adopting regulations governing uses of fish and
25 game under AS 16. The fish and game habitat and breeding areas shall be managed
26 to ensure that the fish and game resources of the park continue on a sustained-yield
27 basis.

28 * Sec. 28. AS 41.21.302(d) is amended to read:

29 (d) The commissioner may not restrict the exercise of fishing, hunting, or
30 trapping rights permitted under law or under a regulation of the Subsistence Board,
31 the Board of Fisheries, or the Board of Game within a marine park unit of the Alaska

1 state park system.

2 * Sec. 29. AS 41.21.492(b) is amended to read:

3 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

4 (1) the Department of Fish and Game, the Subsistence Board, the
5 Board of Fisheries, or the Board of Game under AS 16 and AS 41.99.010;

6 (2) the Department of Environmental Conservation under AS 46.03;

7 or

8 (3) state agencies and municipalities under AS 44.19.145(a)(11) and
9 AS 46.40.100.

10 * Sec. 30. AS 41.21.504(b) is amended to read:

11 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

12 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the
13 Department of Fish and Game, the Subsistence Board, [OR] the Board of Fisheries,
14 or the Board of Game;

15 (2) AS 46.03 regarding the responsibilities of the Department of
16 Environmental Conservation; or

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

19 * Sec. 31. AS 41.21.616 is amended to read:

20 Sec. 41.21.616. REGULATIONS. The department shall consult with the
21 Department of Fish and Game, the United States Fish and Wildlife Service, a local
22 governing body of a municipality, any local fish and game advisory committees, and
23 the Alaska Chilkat Bald Eagle Preserve Advisory Council established by
24 AS 41.21.625 before adoption of reasonable regulations governing public use and
25 protection of the Alaska Chilkat Bald Eagle Preserve. The Department of Fish and
26 Game shall consult with the department and the Alaska Chilkat Bald Eagle Preserve
27 Advisory Council in proposing regulations governing fish and game management in
28 the Alaska Chilkat Bald Eagle Preserve for adoption by the Subsistence Board, the
29 Board of Fisheries, or the Board of Game. The Department of Fish and Game and
30 the department shall cooperate with the United States Fish and Wildlife Service in
31 [ITS] administration of federal law governing the conservation of bald eagles.

1 * Sec. 32. AS 41.23.030(c) is amended to read:

2 (c) The commissioner may not restrict lawful sport and subsistence fishing,
3 hunting, or trapping rights allowed under a regulation of the Subsistence Board, the
4 Board of Fisheries, or the Board of Game within the Nelchina Public Use Area.

5 * Sec. 33. AS 41.23.110(b) is amended to read:

6 (b) The commissioner of fish and game, the Subsistence Board, the Board
7 of Fisheries, and the Board of Game are responsible for the management of fish and
8 game resources and public use of fish and wildlife in the Hatcher Pass Public Use
9 Area consistent with the purposes of AS 41.23.100.

10 * Sec. 34. AS 41.23.110(d) is amended to read:

11 (d) The provisions of AS 41.23.100 - 41.23.130 do not restrict a responsibility
12 within the Hatcher Pass Public Use Area of the commissioner of fish and game, the
13 Subsistence Board, the Board of Fisheries, the Board of Game, the commissioner of
14 environmental conservation, or the commissioner of public safety.

15 * Sec. 35. AS 41.23.120(c) is amended to read:

16 (c) The commissioner may not restrict lawful fishing, hunting, or trapping
17 rights allowed under a regulation of the Subsistence Board, the Board of Fisheries,
18 or the Board of Game within the Hatcher Pass Public Use Area.

19 * Sec. 36. AS 41.23.160(c) is amended to read:

20 (c) The commissioner may not restrict fishing, hunting, or trapping rights
21 allowed under a regulation of the Subsistence Board, the Board of Fisheries, or the
22 Board of Game within the Goldstream Public Use Area.

23 * Sec. 37. AS 41.23.420(d) is amended to read:

24 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of
25 (1) the Department of Fish and Game, the Subsistence Board, the
26 Board of Fisheries, the Board of Game, or the Big Game Commercial Services Board
27 under AS 08.54, AS 16, or AS 41.99.010;
28 (2) the Department of Environmental Conservation under AS 46.03;
29 or
30 (3) state agencies and municipalities under AS 44.19.145(a)(11) and
31 AS 46.40.100.

1 * **Sec. 38.** AS 41.99.010 is amended to read:

2 **Sec. 41.99.010. GAME MANAGEMENT AND ENFORCEMENT.** Nothing
3 in this title denies the Department of Fish and Game, the Subsistence Board, [OR]
4 the Board of Fisheries, or [AND] the Board of Game [THEIR] management and
5 enforcement responsibilities related to the fish and game of this state.

6 * **Sec. 39.** AS 44.39.030 is amended to read:

7 **Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF**
8 **COMMISSIONER.** The governor shall appoint the commissioner of fish and game
9 from a list of qualified persons nominated by the Subsistence Board, the Board of
10 Fisheries, and the Board of Game meeting in joint session, subject to the right of the
11 governor to request additional nominations. The appointment shall be confirmed by
12 a majority of the members of the legislature in joint session. The commissioner of
13 fish and game serves for a term of five years.

14 * **Sec. 40.** AS 44.39.050 is amended to read:

15 **Sec. 44.39.050. REMOVAL OF COMMISSIONER.** The Subsistence Board,
16 the Board of Fisheries, or the Board of Game may submit a resolution to the governor
17 requesting the removal of the commissioner. The resolution shall set out the grounds
18 for the request and the governor shall give the commissioner and both boards an
19 opportunity to be heard. The final decision to remove or retain the commissioner shall
20 be made by the governor.

21 * **Sec. 41. INITIAL APPOINTMENT OF MEMBERS TO THE SUBSISTENCE BOARD.**

22 In making the initial appointments to the Subsistence Board created under AS 16.05.221(c),
23 added by sec. 6 of this Act, the governor shall designate those members of the board that are
24 appointed to one-year, two-year, and three-year terms.

25 * **Sec. 42.** Sections 1 and 6 of this Act, AS 16.05.260(b) added by sec. 12 of this Act, and
26 sec. 41 of this Act take effect on the effective date of a constitutional amendment relating to
27 subsistence uses of fish and game that is approved by the voters at the 1992 general election.

28 * **Sec. 43.** Except as provided in sec. 42 of this Act, this Act takes effect upon the
29 convening of the first meeting of the Subsistence Board created under AS 16.05.221(c), added
30 by sec. 6 of this Act. The commissioner of fish and game shall notify the lieutenant governor
31 and the revisor of statutes of the date of the first meeting of the Subsistence Board.