

SUBSISTENCE

BILL DRAFTS

AND

LETTERS OF

INTENT

(FILE 2)

Offered: 2/5/86  
Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:

15 (12) designating and regulating special fishing areas,  
16 including personal use areas, trophy management areas, catch-and-  
17 release areas, and children's fishing areas, and designating stocks in  
18 those areas for which special management is appropriate;

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

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunts and subsistence hunts as needed  
24 for the conservation, development, and utilization of game and nongame  
25 species.

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, sound management, and the  
5 maintenance of healthy fish stocks and game populations, the boards  
6 shall determine

7 (1) whether there exists a harvestable surplus of the  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the surplus is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able surplus is determined to exist under (b)(1) of this section. If  
15 a surplus is not sufficient to accommodate all consumptive uses of the  
16 surplus, but is sufficient to accommodate subsistence uses of the  
17 surplus, then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the surplus.  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 (f) In making allocation decisions the boards may apportion  
8 subsistence use among species, stocks, and populations that are simi-  
9 lar and reasonably available.

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 (i) The boards, after consulting with the department, shall  
19 adopt regulations defining "maintenance of healthy populations of fish  
20 and game," "sound management principles," "sustained yield," and  
21 "harvestable surplus."

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 subsistence or personal use regulation.

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

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

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

9 (d) With the assistance of the department, the boards shall  
10 provide reasonable public notice of the following information to users  
11 of a group, community, village, or area subsistence permit:

12 (1) the terms of the permit;

13 (2) the fish stocks and game populations authorized to be  
14 taken under the permit;

15 (3) the subsistence use areas covered by the permit.

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601 - 1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) The commissioner shall administer subsistence permit pro-  
21 grams that may be established. The commissioner may appoint state  
22 employees or other persons to take applications and issue permits and  
23 tags. A person appointed by the commissioner may administer oaths for  
24 permit and tag applications. The commissioner or the appropriate  
25 board may require a report from persons using a permit concerning the  
26 time, manner, and place of taking fish and game, the kinds and quanti-  
27 ty taken, and other information helpful in administering the fish and  
28 game resources of the state. Except for state employees, a person  
29 appointed by the commissioner under this subsection is entitled to

1       ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2       ~~whichever is greater.]~~

3       \* Sec. 7. AS 16.05.940(22) is amended to read:

4               (22) "subsistence fishing" means the taking of, fishing for,  
5       or possession of fish, shellfish, or other fisheries resources by a  
6       resident domiciled in a rural area of the state for subsistence uses  
7       with gill net, seine, fish wheel, long line, or other means defined by  
8       the Board of Fisheries;

9       \* Sec. 8. AS 16.05.940(23) is amended to read:

10              (23) "subsistence uses" means the noncommercial, customary  
11       and traditional uses [IN ALASKA] of wild, renewable resources by a  
12       resident domiciled in a rural area of the state for direct personal or  
13       family consumption as food, shelter, fuel, clothing, tools, or trans-  
14       portation, for the making and selling of handicraft articles out of  
15       nonedible by-products of fish and wildlife resources taken for per-  
16       sonal or family consumption, and for the customary trade, barter, or  
17       sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18       this paragraph, "family" means [ALL] persons related by blood, mar-  
19       riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20       hold on a permanent basis;

21       \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22              (28) "domicile" means the true and permanent home of a  
23       person from which the person has no present intention of moving and to  
24       which the person intends to return whenever the person is away; domi-  
25       cile may be proved by presenting evidence of having had a permanent  
26       home in a particular location for the preceding 12 consecutive months  
27       or other evidence acceptable to the boards of fisheries and game;

28              (29) "fish stock" means a species, subspecies, geographic  
29       grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game [~~animals~~] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

DEF OF - SUSTAINED YIELD  
DEF OF. PERSONAL USE FISHING

folsom lake now contains 840,000 acre-feet of water, compared to a normal level of 720,000 acre-feet at this time of year.  
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^BC-Subsistence Bill, 770

^Sturgulewski: No Big Problems With Subsistence Proposal

^By SUE CROSS=

^Associated Press Writer=

JUNEAU (AP) — The subsistence rights bill that has grown from a legislative fix for ambiguous language to a blueprint for redesigning Alaska fish and game management could pass the Senate in much the same form it's in now, the chairwoman of the Senate Resources Committee predicted Monday.

But other legislators and administrators who have worked on the measure say the Senate only increased the bill's flaws, and that simplification will be needed before it becomes law.

The Resources committee is to begin hearings on the bill (SCS CSHB288) Wednesday, and hopes to take action on it March 5, said Sen. Arliss Sturgulewski, R-Anchorage, head of the Senate Resources Committee.

The Alaska Federation of Natives and the Alaska attorney general's office have questioned whether parts of the bill are constitutional, if they meet federal standard, and if they would be unfair to subsistence hunters and fishermen.

Sturgulewski said in an interview that those doubts easily can be resolved.

"It's my feeling that a good many of these issues raised by the attorney general's office either are not real problems or they can be addressed by some minor wording changes," she said.

"I anticipate a bill very much like this one will pass (into law)."

The Senate State Affairs Committee added more than five pages of amendments to the 2 12-page bill that passed the House last session.

Among the major policy changes inserted are instructions for the Alaska fisheries and game boards to identify stocks available for subsistence use, and to giving the boards authority to apportion the stocks as they see fit.

The apportionment clause raises the ire of Don Mitchell, attorney for the Alaska Federation of Natives. He said in a Feb. 10 analysis that the clause "makes a mockery of the subsistence priority."

Mitchell said if the provision became law, the boards could, for example, shut down subsistence fishing of king salmon, the most desirable for commercial and sport fishing, and switch subsistence users to red or other less-coveted salmon species.

Sturgulewski said debate over the apportionment clause leads her to believe it will be amended.

The Senate version also calls for the fisheries and game boards to set up an appeals process, which petitioners would have to exhaust before taking a subsistence complaint to court.

Sturgulewski said that proposal would add a level of bureaucracy that is commonplace in other state programs, and one that would justify its cost by reducing the number of lawsuits filed. She said the cost has not been determined.

Jim Ayers, legislative liaison for Gov. Bill Sheffield, said the boards already hear subsistence appeals, and the attorney general's office has said any additional appeals would have to be made to the Commissioner of Fish and Game. That would be inappropriate because the commissioner only carries out policies created by the board and should not rule on its decisions, Ayers said.

No one in the commissioner's office was available to comment because Monday, President's Day, was a state holiday.

Ayers and Sturgulewski both said there are ambiguities in the bill's language that should be taken out or defined, such as what is meant by the "sound management" of fish and game required in the Senate version, and how "customary and traditional" uses should be used to determine subsistence rights.

But Ayers said that even if those points are clarified, the bill, in general, attempts too much.

"Our bill fixed what was broken. They've now taken on other issues and other discussions of problems that weren't there before they opened them up," he said.

~~Rep. Jack FULLER, D-Nome, who rallied support for the bill in the House last session, also said the Senate draft is too broad.~~

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"Our bill fixed what was broken. They've now taken on other issues and other discussions of problems that weren't there before they opened them up," he said.

Rep. Jack Fuller, D-Nome, who rallied support for the bill in the House last session, also said the Senate draft is too broad.

"The only thing they (Senators) seemed to do was garbage it up," Fuller said.

He said if such a broad bill passes the Senate, the House probably would reject it. A legislative conference committee then would have to draft a compromise measure to send to the governor.

The Department of Interior has given Alaska a June 1 deadline to enact a new subsistence law or lose control of fish and game on all federal land in the state.

Alaska has not complied with the federal Alaska National Interest Lands Conservation Act of 1980 since the state Supreme Court ruled last year that regulatory boards too narrowly limited subsistence rights to rural residents.

The ruling opened subsistence rights to urban residents, contrary to the federal requirement. Both the House and Senate bills would reinstate the rural residency requirement.

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HB 236

A new fiscal note was attached and appears in House Journal Supplement No. 62.

HB 236 was referred to the Rules Committee for placement on the calendar.

HB 252

The Finance Committee has considered HOUSE BILL NO. 252 (state retirement benefits; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 252 (State Affairs) (page 1019) and reports it back as follows: Adams (Chairman), Duncan, Larson, Pourchot, Rieger and Cotten recommend do pass. Szymanski, Ringstad, Uehling and Frank have no recommendation.

HB 252 was referred to the Rules Committee for placement on the calendar.

HFJ 288

The following letter of intent was received. The letter was duplicated and distributed to each member. HOUSE BILL NO. 288 (taking of fish and game for subsistence and personal use; effective date) appears on today's calendar.

"HOUSE RULES COMMITTEE  
LETTER OF INTENT  
FOR  
CSHB 288 (Jud)

The purpose of this bill is to authorize the Alaska Board of Fisheries and the Alaska Board of Game to adopt regulations identifying "subsistence uses" of fish stocks and game populations as the boards did from May 30, 1982 until February 22, 1985.

Pursuant to this bill the boards will limit the identification of "subsistence uses" of fish stocks and game populations to the taking of such stocks and populations by Alaska residents who are domiciled in rural communities and rural areas in which the taking of fish stocks or game populations for personal or family consumption is a significant characteristic of the economy of the community or area, as determined by the boards.

This limitation of the definition of "subsistence uses" recognizes that Alaska is unique, and unlike any of the other forty-nine states, the economy of many rural communities and rural areas in Alaska is significantly dependent upon participation by the residents of these communities in the taking of fish stocks and game populations

HB 288

for personal or family consumption. Further, the Legislature finds that the general health and welfare of these citizens is significantly tied to their participation in these activities.

The boards will be authorized to adopt regulations for identifying customary and traditional uses by Alaska residents of those rural communities and rural areas. It is the intent of the Legislature to preserve the approach to implementing the state's subsistence law embodied in 5 AAC 99.010, (as adopted by the Joint Boards of Fisheries and Game on May 30, 1982), for identifying subsistence uses on a community or area basis.

The Legislature finds that implementing the subsistence law is consistent with the intent of the definition of subsistence hunting and fishing and personal use fishing contained in House Bill 288 when criteria such as those outlined below are used to identify customary and traditional uses of the resource:

(1) a long-term, consistent pattern of use, excluding interruption by circumstances beyond the user's control such as regulatory prohibitions;

(2) a use pattern recurring in specific seasons of each year;

(3) a use pattern consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, and conditioned by local circumstances;

(4) the consistent harvest and use of fish or game which is near, or reasonably accessible from, the user's residence;

(5) the means of handling, preparing, preserving, and storing fish or game which has been traditionally used by past generations, but not excluding recent technological advances where appropriate;

(6) a use pattern which includes the handing down of knowledge of fishing or hunting skills, values and lore from generation to generation;

(7) a use pattern in which the hunting or fishing effort or the products of that effort are distributed or shared among others within a definable community of persons, including customary trade, barter, sharing, and gift-giving; customary trade may include limited exchanges for cash, but does not include significant commercial enterprises; a community may include specific villages or towns, with a historical preponderance of subsistence users, and encompasses

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individuals, families, or groups who in fact meet the criteria described in this subsection; and

(8) a use pattern which includes reliance for subsistence purposes upon a wide diversity of the fish and game resources of an area, and which provides substantial economic, cultural, social, and nutritional elements of the subsistence user's life.

This legislation establishes that the commercial sale of fish and game taken for personal or family consumption is prohibited, but does not preclude the sale of handicraft articles made from the non-edible by products taken for such uses. Accordingly, the Legislature intends that barter, sharing and customary trade of fish or game taken for personal or family consumption be of a non-commercial nature. This restriction however, does not apply to the existing limited sale of animal furs by subsistence users of the resource.

The bill also establishes a statutory definition of "personal use fishing." Although sport, commercial and personal use fishing are not afforded a statutory priority over each other, the inclusion of a definition of "personal use" is to indicate that the intent of the Legislature is to delegate to the Alaska Board of Fisheries adequate regulatory authority to provide all persons engaged in sport, commercial, and personal use fishing a reasonable opportunity to participate in the harvest of Alaska's fish stocks.

The Legislature recognizes that personal use of fish and wildlife is a valuable part of Alaskan life. Therefore, it is the intent of the Legislature that the Board of Fisheries provides fairly and adequately for these personal uses. For example, the Board must provide a fair and adequate allocation for the fishery at Chitina, on the Copper River, in which Fairbanks residents and other Alaskans participate using dipnets and fishwheels to harvest salmon for personal use.

/s/M.W.Miller

M.W. Miller, House Rules Chrm  
May 2, 1985"

HB 322

The Judiciary Committee has considered HOUSE BILL NO. 322 (use of information from fingerprints of members of the Alaska Bar Association) and reports it back as follows: M.M.Miller (Chairman), Sund, Gruenberg, Taylor, Pettyjohn, Phillips and Clocksin recommend do pass.

A zero fiscal note was attached.

HB 322 was referred to the Rules Committee for placement on the calendar.

representing some of the cultural, historical, and ecological diversity in the State. The information was organized in a manner to encourage the comparative exploration and analysis of tentative generalizations about fishing and hunting in Alaska.

The case studies of the sixteen communities demonstrate that many communities in Alaska are economically and socially dependent on the harvest of wild and renewable resources for local uses. Fishing and hunting activities and resource uses in certain communities are components of complex social and economic systems with particular characteristics.

A "subsistence-based socioeconomic system" was identified as one type of socioeconomic system in the State. A subsistence-based socioeconomic system is "food extractive" in nature, contrasting with economies displaying other economic bases, such as manufacturing, trade, government, finance, and defense. A subsistence-based system has several characteristics:

- (1) a "mixed economy" with mutually supportive "market" and "subsistence" sectors;
- (2) a "domestic mode of production" where production capital, land, and labor are controlled by extended, kinship-based production units;
- (3) a stable and complex "seasonal round of production activities" within the community tied to the seasonal arrival and fluctuations of fish and game resources;
- (4) substantial non-commercial networks of sharing, distribution, and exchange of food and materials;
- (5) traditional systems of land use and occupancy; and
- (6) complex systems of beliefs, knowledge, and values associated with resource uses passed on between generations as the cultural and oral traditions and customs of a social group.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

7 (5) the importance of each fishery to the economy of the  
8 state;

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

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

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

17 (d) Regulations adopted under (a) of this section shall provide  
18 that, consistent with the provisions of AS 16.05.258, the taking of  
19 moose, deer, elk, and caribou by residents for personal or family  
20 consumption has preference over taking by nonresidents.

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1           sustained yield; and

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

5                   (c) The boards shall adopt subsistence fishing and subsistence  
6           hunting regulations for each stock and population for which a harvest-  
7           able portion is determined to exist under (b)(1) of this section. If  
8           the harvestable portion is not sufficient to accommodate all consump-  
9           tive uses of the stock or population, but is sufficient to accommodate  
10          subsistence uses of the stock or population, then nonwasteful subsis-  
11          tence uses shall be accorded a preference over other consumptive uses,  
12          and the regulations shall provide a reasonable opportunity to satisfy  
13          the subsistence uses. If the harvestable portion is sufficient to  
14          accommodate the subsistence uses of the stock or population, then the  
15          boards may provide for other consumptive uses of the remainder of the  
16          harvestable portion. If it is necessary to restrict subsistence  
17          fishing or subsistence hunting in order to assure sustained yield or  
18          continue subsistence uses, then the preference shall be limited, and  
19          the boards shall distinguish among subsistence users, by applying the  
20          following criteria:

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

23                   (2) local residency; and

24                   (3) availability of alternative resources.

25                   (d) The boards may adopt regulations consistent with this sec-  
26          tion that authorize taking for nonsubsistence uses a stock or popula-  
27          tion identified under (a) of this section.

28                   (e) Fish stocks and game populations, including bison, or  
29          portions of fish stocks and game populations, not identified under (a)

of this section may be taken only under nonsubsistence regulations.

(f) Takings authorized under this section are subject to reasonable regulation of seasons, catch or bag limits, and methods and means. Takings and uses of resources authorized under this section are subject to AS 16.05.831 and AS 16.30.

Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries and the Board of Game, acting jointly, may establish by regulation an appeal procedure for persons aggrieved by the adoption or repeal of a regulation.

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

Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

\* Sec. 8. AS 16.05.330 is amended by adding a new subsection to read:

(c) The Board of Fisheries and the Board of Game may adopt regulations providing for the issuance and expiration of subsistence permits for areas, villages, communities, groups, or individuals as needed for authorizing, regulating and monitoring the subsistence harvest of fish and game. The boards shall adopt these regulations when the subsistence preference requires a reduction in the harvest of a fish stock or game population by nonsubsistence users.

\* Sec. 9. AS 16.05.940(22) is amended to read:

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

\* Sec. 10. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the noncommercial, customary

and traditional uses [IN ALASKA] of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in [FOR THE PURPOSES OF] this paragraph, "family" means [ALL] persons related by blood, marriage, or adoption, and a [ANY] person living in [WITHIN] the household on a permanent basis;

\* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

(28) "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(29) "fish stock" means a species, subspecies, geographic grouping or other category of fish manageable as a unit;

(30) "game population" means a group of game animals of a single species or subgroup manageable as a unit;

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

(32) "rural area" means a community or area of the state 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;

(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 12. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 13. This Act takes effect June 1, 1986.

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Hein ✓  
3/4/86

Coghill's Suggested  
Changes

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence.

26 [in each rural ~~area~~ <sup>area</sup> identified by the boards.]

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1 sustained yield; and

2 (2) how much of the harvestable portion is needed to provide a reasonable opportunity to satisfy the subsistence <sup>NEEDS</sup> uses of those  
3 stocks and populations, ~~by~~ <sup>by</sup> Alaskans.

4 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses <sup>NEEDS</sup> [of the ~~stock~~ <sup>stock</sup> or population], but is sufficient to accommodate  
9 subsistence <sup>NEEDS</sup> uses <sup>the reasonable opportunity to harvest</sup> [of the ~~stock~~ <sup>stock</sup> or population], then a nonwasteful subsis-  
10 tence <sup>NEEDS</sup> uses shall be accorded a preference over other consumptive uses <sup>NEEDS</sup> uses;  
11 [and the regulations shall ~~provide~~ <sup>provide</sup> a reasonable opportunity to satisfy  
12 the subsistence uses.] If the harvestable portion is sufficient to  
13 accommodate the subsistence <sup>NEEDS</sup> uses [of the ~~stock~~ <sup>stock</sup> or population], then the  
14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict ~~subsistence~~ <sup>subsistence</sup>  
16 <sup>AMONG PREFERRED USERS</sup> fishing or subsistence hunting] in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be <sup>FURTHER</sup> limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:  
20

- 21 (1) customary and direct dependence on the fish stock or  
22 game population as the mainstay of livelihood;  
23 (2) local residency; and  
24 (3) availability of alternative resources.

25 (d) The boards may adopt regulations consistent with this sec-  
26 tion that authorize taking for nonsubsistence uses ~~of~~ <sup>of</sup> stock or popula-  
27 tion identified under (a) of this section.

28 (e) Fish stocks and game populations, or portions of fish  
29 stocks and game populations, <sup>LIKE BISON,</sup> not identified under (a) of this section

*All- limiting  
factual  
@ other animals  
fish*

1 may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
3 able regulation of seasons, catch or bag limits, and methods and  
4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

6 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
7 and the Board of Game, acting jointly, may establish by regulation an  
8 appeal procedure for persons aggrieved by the adoption or repeal of a  
9 regulation.

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

11 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
12 the taking of fish or game in violation of a statute or regulation, it  
13 is not a defense that the taking was done for subsistence uses.

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

15 (c) The Board of Fisheries and the Board of Game <sup>SHALL</sup> [may] adopt  
16 regulations providing for the issuance and expiration of subsistence  
17 permits for [areas, villages, ~~DE~~ communities, groups,] or [individuals as  
18 needed for authorizing, regulating and monitoring the subsistence  
19 harvest of fish and game. [ The boards shall ~~DE~~ adopt these regulations ]  
20 <sup>WHENEVER A</sup> [when the] subsistence preference <sup>IS REQUIRED</sup> [requires] [a reduction ~~IN THE~~ harvest of  
21 a fish stock or game population by nonsubsistence users.]

22 \* Sec. 7. AS 16.05.940(22) is amended to read:

23 (22) "subsistence fishing" means the taking of, fishing for,  
24 or possession of fish, shellfish, or other fisheries resources by a  
25 resident domiciled in [a rural ~~area~~ of] the state for subsistence uses  
26 with gill net, seine, fish wheel, long line, or other means defined by  
27 the Board of Fisheries;

28 \* Sec. 8. AS 16.05.940(23) is amended to read:

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

1 and traditional uses [IN ALASKA] of wild, renewable resources by a  
 2 resident domiciled in [a rural area of] the state for direct personal or  
 3 family consumption as food, shelter, fuel, clothing, tools, or trans-  
 4 portation, for the making and selling of handicraft articles out of  
 5 nonedible by-products of fish and wildlife resources taken for per-  
 6 sonal or family consumption, and for the customary trade, barter, or  
 7 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
 8 this paragraph, "family" means [ALL] persons related by blood, mar-  
 9 riage, or adoption, and [a ~~ANY~~ person] living in [WITHIN] the house-  
 10 hold on a permanent basis;

11 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

12 (28) "domicile" means the true and permanent home of a  
 13 person from which the person has no present intention of moving and to  
 14 which the person intends to return whenever the person is away; domi-  
 15 cile may be proved by presenting evidence acceptable to the boards of  
 16 fisheries and game;

17 (29) "fish stock" means a species, subspecies, geographic  
 18 grouping or other category of fish manageable as a unit;

19 (30) "game population" means a group of game animals of a  
 20 single species or subgroup manageable as a unit;

21 (31) "personal use fishing" means the taking, fishing for,  
 22 or possession of finfish, shellfish, or other fishery resources, by  
 23 Alaska residents for personal use and not for sale or barter, with  
 24 gill or dip net, seine, fish wheel, long line, or other means defined  
 25 by the Board of Fisheries;

26 (32) "rural area" means a community or area of the state in  
 27 which the noncommercial, ~~customary,~~ ~~and~~ traditional use of fish or  
 28 game for personal or family consumption is a significant characteris-  
 29 tic of the economy of the community or area;

*Principal*

(32) "CUSTOMARY AND TRADITIONAL" means that there exists a history of use and an economic need.

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(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 10. AS 16.05.251('), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 11. This Act takes effect June 1, 1986.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

7 (5) the importance of each fishery to the economy of the  
8 state;

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

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

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

17 (d) Regulations adopted under (a) of this section shall provide  
18 that, consistent with the provisions of AS 16.05.258, the taking of  
19 moose, deer, elk, and caribou by residents for personal or family  
20 consumption has preference over taking by nonresidents.

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1       sustained yield; and

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

5               (c) The boards shall adopt subsistence fishing and subsistence  
6       hunting regulations for each stock and population for which a harvest-  
7       able portion is determined to exist under (b)(1) of this section. If  
8       the harvestable portion is not sufficient to accommodate all consump-  
9       tive uses of the stock or population, but is sufficient to accommodate  
10       subsistence uses of the stock or population, then nonwasteful subsis-  
11       tence uses shall be accorded a preference over other consumptive uses,  
12       and the regulations shall provide a reasonable opportunity to satisfy  
13       the subsistence uses. If the harvestable portion is sufficient to  
14       accommodate the subsistence uses of the stock or population, then the  
15       boards may provide for other consumptive uses of the remainder of the  
16       harvestable portion. If it is necessary to restrict subsistence  
17       fishing or subsistence hunting in order to assure sustained yield or  
18       continue subsistence uses, then the preference shall be limited, and  
19       the boards shall distinguish among subsistence users, by applying the  
20       following criteria:

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

23               (2) local residency; and

24               (3) availability of alternative resources.

25               (d) The boards may adopt regulations consistent with this sec-  
26       tion that authorize taking for nonsubsistence uses a stock or popula-  
27       tion identified under (a) of this section.

28               (e) Fish stocks and game populations, including bison, or  
29       portions of fish stocks and game populations, not identified under (a)

of this section may be taken only under nonsubsistence regulations.

(f) Takings authorized under this section are subject to reasonable regulation of seasons, catch or bag limits, and methods and means. Takings and uses of resources authorized under this section are subject to AS 16.05.831 and AS 16.30.

Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries and the Board of Game, acting jointly, may establish by regulation an appeal procedure for persons aggrieved by the adoption or repeal of a regulation.

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

Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

\* Sec. 8. AS 16.05.330 is amended by adding a new subsection to read:

(c) The Board of Fisheries and the Board of Game may adopt regulations providing for the issuance and expiration of subsistence permits for areas, villages, communities, groups, or individuals as needed for authorizing, regulating and monitoring the subsistence harvest of fish and game. The boards shall adopt these regulations when the subsistence preference requires a reduction in the harvest of a fish stock or game population by nonsubsistence users.

\* Sec. 9. AS 16.05.940(22) is amended to read:

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

\* Sec. 10. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the noncommercial, customary

and traditional uses [IN ALASKA] of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in [FOR THE PURPOSES OF] this paragraph, "family" means [ALL] persons related by blood, marriage, or adoption, and a [ANY] person living in [WITHIN] the household on a permanent basis;

\* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

(28) "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(29) "fish stock" means a species, subspecies, geographic grouping or other category of fish manageable as a unit;

(30) "game population" means a group of game animals of a single species or subgroup manageable as a unit;

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

(32) "rural area" means a community or area of the state 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;

(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 12. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 13. This Act takes effect June 1, 1986.

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2/7/86

Offered: 2/5/86  
 Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
 2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FOURTEENTH LEGISLATURE - SECOND SESSION  
 5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
 7 subsistence and personal use; and providing for an  
 8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
 12 use fish, subsistence fish, or predators or other categories essential  
 13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding <sup>a</sup>new paragraph<sup>s</sup> to read:

15 ~~[(12) designating and regulating special fishing areas,~~  
 16 ~~including personal use areas, trophy management areas, catch and~~  
 17 ~~release areas, and children's fishing areas, and designating stocks in~~  
 18 ~~those areas for which special management is appropriate;]~~

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

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunt<sup>ing</sup> and subsistence hunt<sup>ing</sup> as needed  
 24 for the conservation, development, and utilization of game [and nongame  
 25 species.]

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
 29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, [~~sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations~~] the boards  
6 shall determine

7 (1) <sup>If a portion</sup> [~~whether there exists a harvestable surplus~~] of the <sup>may be harvested</sup>  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the <sup>harvestable portion</sup> [~~surplus~~] is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able surplus is determined to exist under (b)(1) of this section. If  
15 a <sup>harvestable portion</sup> [~~surplus~~] is not sufficient to accommodate all consumptive uses of the  
16 <sup>harvestable portion</sup> [~~surplus~~] but is sufficient to accommodate subsistence uses of the  
17 <sup>harvestable portion</sup> [~~surplus~~] then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the <sup>harvestable portion</sup> [~~surplus~~].  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

→7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 FIX (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 ~~[(i) The boards, after consulting with the department, shall~~  
19 ~~adopt regulations defining "maintenance of healthy populations of fish~~  
20 ~~and game," "sound management principles," "sustained yield," and~~  
21 ~~"harvestable surplus."]~~

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 ~~[subsistence or personal use]~~ regulation.

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

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

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

9 ~~[(d) With the assistance of the department, the boards shall  
10 provide reasonable public notice of the following information to users  
11 of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be  
14 taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit.~~

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601-1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) ~~The commissioner shall administer subsistence permit pro-  
21 grams that may be established. The commissioner may appoint state  
22 employees or other persons to take applications and issue permits and  
23 tags. A person appointed by the commissioner may administer oaths for  
24 permit and tag applications. The commissioner or the appropriate  
25 board may require a report from persons using a permit concerning the  
26 time, manner, and place of taking fish and game, the kinds and quanti-  
27 ty taken, and other information helpful in administering the fish and  
28 game resources of the state. Except for state employees, a person  
29 appointed by the commissioner under this subsection is entitled to~~

1 ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2 ~~whichever is greater.]~~

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game [animals] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

ADD definitions of:  
SUSTAINED YIELD  
PERSONAL USE Fishing

A M E N D M E N T

by Coghill

TO: SCS CSHB 288 (Resources) (2/26 draft)

Page 1 line 15 delete (12) insert (13)

Page 1 line 19 delete (10) insert (11)

Page 1 after line 26:

\*Sec 4 AS 16.05.258] SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

(a) The Board of Fisheries and the Board of Game shall identify fish stocks and game populations, or portions of stocks and populations, that are customarily and traditionally used for subsistence purposes in each rural area identified by the boards.] is amended by adding a new subsection to read:

(1) The Boards shall also identify fish game species that are not in a subsistence category which would include but not be limited to bison and mountain sheep.

Page 2 after line 19:

...by applying the following criteria:]

(1) household users who were domiciled in rural areas prior to January 1, 1986 shall have a priority for subsistence use.  
(sections 1, 2, and 3 should be renumbered 2, 3, and 4)

Page 5 after line 9:

\*Sec. 11. AS 16.30.010 WANTON WASTE OF BIG GAME ANIMALS AND WILD FOWL

(a) It is a class A misdemeanor for a person who kills a big game animal, a subsistence game animal, or a species of water fowl...

Definitions need to be made for the following terms: mainstay of livelihood; customary and traditional uses; method and means

*WFA 6-2880  
6-2956 Bob Blake  
344-8674  
344-5255*

A M E N D M E N T

Offered in the SENATE

By V.Fischer

TO: SCS CSHB 288(Resources) (2/26/86 draft)

Page 1, after line 17, insert a new bill section to read:

"\* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

(d) Regulations adopted under (a) of this section shall, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources for personal use and other consumptive uses.

(e) The Board of Fisheries shall establish criteria for the allocation of fishery resources among personal use and other nonsubsistence consumptive use categories. The criteria may include factors such as

- (1) the history of each personal use, sport, and commercial fishery;
- (2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;
- (3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- (4) the availability of alternative fisheries resources;
- (5) the importance of each fishery to the economy of the

*Proposed for personal use*

state;

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

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents."

Renumber remaining bill sections accordingly.

COMMENTS ON 2/26/86 WORK DRAFT  
SENATE CS FOR CS FOR HB 288 (RESOURCES)

"AN ACT RELATING TO THE TAKING OF FISH AND GAME FOR SUBSISTENCE AND PERSONAL USE; AND PROVIDING FOR AN EFFECTIVE DATE"

page 1 line 23 should be amended to read:

(a) The Board of Fisheries and the Board of Game, after consulting with each respective regional fish and game council, shall identify the fish stocks and game populations,.....

page 1 line 27 should be amended to read:

(b) Consistent with sustained yield, the boards, upon consultation with each regional fish and game council, shall determine (1) what portion, if any, of the stocks and populations identified under (a) of this section can be harvested; and (2) how much of the harvestable portion is needed to [provide a] meet reasonable [opportunity to satisfy the] subsistence [uses] requirements of those stocks and populations.

move this section from line 12 p 2 to here:

(3) If this subsistence harvestable minimum population [the harvestable portion] is sufficient to accomodate the subsistence uses of the stock or population, then the boards may provide for other consumptive uses of the [remainder of the] harvestable surplus [portion].

(c) The boards shall adopt subsistence fishing and subsistence hunting regulations for each stock and population for which a subsistence harvestable minimum [portion] is determined to exist under (b) (1) of this section. If the harvestable portion is not sufficient to accommodate all consumptive uses of the stock or population, but is sufficient to accommodate subsistence uses of the stock or population, then subsistence uses shall be accorded a preference over other consumptive uses, and the regulations shall provide a reasonable opportunity to satisfy the subsistence requirements [uses]. If it is necessary to restrict.....

page 3, lines 1&2:

(f) Takings authorized under this section are subject to both reasonable subsistence regulatory standards and regulatory standards for sport and commercial purposes, which may include regulation of seasons, catch or bag limits, and methods and means.

page 3, line 25, an addition:

Permits may also be issued for subsistence taking by proxy.

16.05.258 SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME

(a) Consistent with the principle of sustained yield, the boards of fish and game shall adopt subsistence fishing and subsistence hunting regulations for each fish stock and game population for which a harvestable portion is determined to exist under (c) (1) of this section. If the harvestable portion is sufficient to accommodate all subsistence uses of the stock or population, then the Boards may provide for other consumptive uses of the remainder of the harvestable portion. If the harvestable portion is not sufficient to accommodate all consumptive uses of the stock or population the boards will first accord all reasonable subsistence uses of a stock or population their harvest requirement under (c) (3) of this section and then allocate the remainder as the board sees fit between other consumptive uses. If, under (c) (6), the boards find that the harvestable portion is not sufficient to accommodate all reasonable subsistence needs and uses of the stock or population as determined under (c) (4) of this section then subsistence uses of that stock or population will be restricted under section (d) below.

(b) Within one year of enactment of this Bill and periodically thereafter, the Boards of Fish and Game, upon consultation with each regional fish and game council and their component local advisory committees, shall identify the principal (major?) fish stocks and game populations, or portions of stocks and populations, that are customarily and traditionally used for subsistence purposes in each rural area identified by the boards.

(c) Consistent with the principle of sustained yield, the boards, in consultation with each regional council and their local committees, shall periodically determine

(1) what portion, if any, of the stocks and populations identified under (a) of this section can be harvested; and

(2) the current and anticipated subsistence needs for such fish stocks and game populations within each region; and

(3) how much of the harvestable portion is needed to meet the subsistence requirements of those stocks and populations identified under (c) (2) of this section; and

(4) a strategy for the management of these stocks and populations which will accommodate such subsistence uses and needs; and

(5) policies, standards, guidelines and regulations to authorize, regulate, monitor and implement the strategy for each stock and population for which a harvestable portion is determined to exist. These regulations shall (reflect the requirements of a subsistence way of life as lived) provide a reasonable opportunity to continue a subsistence way of life by... residents of rural Alaska. Such regulations may address seasons, catch or bag limits and methods and means of taking.

(7) The boards may adopt regulations providing for the issuance and expiration of subsistence permits for areas, villages, communities, groups, or individuals as needed for authorizing, regulating and monitoring the subsistence harvest of fish and game. The boards shall adopt these regulations when the subsistence preference under (e) of this section requires a reduction in the harvest of a stock or

population by nonsubsistence users or to provide transferrable permits for taking by proxy on behalf of physically incapacitated subsistence users.

(d) If the Boards of Fish and Game, in consultation with regional councils, finds that a harvestable portion of a stock or population exists, but that it is necessary to restrict subsistence fishing or subsistence hunting in order to assure sustained yield and/or continue subsistence uses, the appropriate board will limit subsistence taking of that stock or population. If it is necessary to limit subsistence taking of a stock or population, the boards shall distinguish among subsistence users by applying the following criteria:

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

(e) If the harvestable portion of a fish stock or game population is found to be sufficient to accommodate all reasonable subsistence uses of the stock or population, then the boards may provide for other consumptive uses of the remainder of the harvestable portion.

(1) The boards may adopt regulations consistent with this section that authorize taking for nonsubsistence uses a stock or population identified under (b) of this section

(2) Fish stocks or game population, or portions of stocks or populations, not identified under (b) of this section may be taken under non-subsistence regulations without first being subject to subsistence preference.

(e) Takings under this section are subject to reasonable regulations either under subsistence standards or sport/commercial standards

(f) military...

Offered: 2/5/86  
Referred: Resources and Judiciary

2/7/86  
MASTER

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:

15 ~~(12) designating and regulating special fishing areas,~~  
16 ~~including personal use areas, trophy management areas, catch-and-~~  
17 ~~release areas, and children's fishing areas, and designating stocks in~~  
18 ~~those areas for which special management is appropriate;~~

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

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunts<sup>ing</sup> and subsistence hunts<sup>ing</sup> as needed  
24 for the conservation, development, and utilization of game<sup>ing</sup> ~~and nongame~~  
25 ~~species;~~

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, ~~[sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations]~~ the boards  
6 shall determine

7 (1) <sup>If a portion of</sup> ~~[whether there exists a harvestable surplus]~~ of the  
8 stocks and populations identified under (a) of this section; <sup>may be harvested</sup> and

9 (2) how much of the <sup>harvestable portion</sup> ~~[surplus]~~ is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able <sup>portion</sup> ~~[surplus]~~ is determined to exist under (b)(1) of this section. If

15 <sup>the harvestable portion</sup> ~~[a surplus]~~ is not sufficient to accommodate all consumptive uses of the

16 <sup>harvestable portion</sup> ~~[surplus]~~, but is sufficient to accommodate subsistence uses of the  
17 <sup>harvestable portion</sup> ~~[surplus]~~, then subsistence uses shall be accorded a preference over

18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may <sup>provide</sup> ~~provide~~  
20 opportunities to satisfy other consumptive uses of the <sup>harvestable portion</sup> ~~[surplus]~~.

21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 <sup>fix or</sup>  
15 <sup>Remove</sup> (h) Active duty military personnel, while stationed in the  
16 state for more than 30 days, are eligible to fish, hunt, or trap on  
17 military installations and facilities in the state under 10 U.S.C.  
18 2671 to the same extent as other nonsubsistence users.

19 [(i) The boards, after consulting with the department, shall  
20 adopt regulations defining "maintenance of healthy populations of fish  
21 and game," "sound management principles," "sustained yield," and  
22 "harvestable surplus.]"

23 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
24 and the Board of Game, acting jointly, may establish by regulation an  
25 appeal procedure for persons aggrieved by the adoption or repeal of a  
26 ~~subsistence or personal use~~ regulation.

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

28 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
29 the taking of fish or game in violation of a statute or regulation, it  
is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

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

9 ~~(d) With the assistance of the department, the boards shall~~  
10 ~~provide reasonable public notice of the following information to users~~  
11 ~~of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be~~  
14 ~~taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit.~~

16 ~~(e) The Board of Fisheries and the Board of Game may use village~~  
17 ~~and regional corporations formed under 43 U.S.C. 1601 - 1620 (Alaska~~  
18 ~~Native Claims Settlement Act) and community, postal, media, or other~~  
19 ~~services appropriate for providing notice under (d) of this section.~~

20 ~~(f) The commissioner shall administer subsistence permit pro-~~  
21 ~~grams that may be established. The commissioner may appoint state~~  
22 ~~employees or other persons to take applications and issue permits and~~  
23 ~~tags. A person appointed by the commissioner may administer oaths for~~  
24 ~~permit and tag applications. The commissioner or the appropriate~~  
25 ~~board may require a report from persons using a permit concerning the~~  
26 ~~time, manner, and place of taking fish and game, the kinds and quanti-~~  
27 ~~ty taken, and other information helpful in administering the fish and~~  
28 ~~game resources of the state. Except for state employees, a person~~  
29 ~~appointed by the commissioner under this subsection is entitled to~~

1 compensation of \$50 per year or \$1 for each permit or tag issued,  
2 whichever is greater.

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;..

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game animals by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

*subsections*  
*(repealing (b) and)*

\* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

(b) Regulations adopted under (a) of this section shall provide that, consistent with the provisions of ~~(b) of this section~~ *Sec 16.05, 258, resident personal use*

*use*  
~~not~~, sport, and commercial fishermen are provided a fair and reasonable opportunity to participate in the harvest of fish. The regulations shall provide that, regardless of the type of gear used in each fishery, the taking of fish by residents for personal and family consumption is a priority use of fish.

(e) In allocating access to fish among persons engaged in resident *personal use* ~~not~~, sport, and commercial fishing, the Board of Fisheries shall consider the following factors:

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

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

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

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the State of Alaska;

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

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

Sec. 5. AS 16.05.255(b) is repealed and reenacted to read:

(b) Regulations adopted under (a) of this section shall provide that, consistent with the provisions of ~~(b) of this section~~ *Sec 16.05, 258,* on a ~~harvested~~

~~yield basis~~, the taking of game from the population by residents for personal and family consumption shall be the priority use of the harvestable *portion* ~~population~~ of the population.

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 purposes in each rural area identified by the boards.

27 (b) Consistent with sustained yield, the boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested; 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 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then subsistence uses  
10 shall be accorded a preference over other consumptive uses, and the  
11 regulations shall provide a reasonable opportunity to satisfy the  
12 subsistence uses. If the harvestable portion is sufficient to accom-  
13 modate the subsistence uses of the stock or population, then the  
14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:

- 20 (1) customary and direct dependence on the fish stock or  
21 game population as the mainstay of livelihood;
- 22 (2) local residency; and
- 23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to reason-  
2 able regulation of seasons, catch or bag limits, and methods and  
3 means. Takings and uses of resources authorized under this section  
4 are subject to AS 16.05.831 and AS 16.30.

5 (g) The implementation of a subsistence preference under this  
6 section does not affect the eligibility of active duty military per-  
7 sonnel, while stationed in the state for more than 30 days, to fish,  
8 hunt, or trap on military installations and facilities in the state  
9 under 10 U.S.C. 2671.

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
11 and the Board of Game, acting jointly, may establish by regulation an  
12 appeal procedure for persons aggrieved by the adoption or repeal of a  
13 regulation.

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

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
16 the taking of fish or game in violation of a statute or regulation, it  
17 is not a defense that the taking was done for subsistence uses.

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

19 (c) The Board of Fisheries and the Board of Game may adopt  
20 regulations providing for the issuance and expiration of subsistence  
21 permits for areas, villages, communities, groups, or individuals as  
22 needed for authorizing, regulating and monitoring the subsistence  
23 harvest of fish and game. The boards shall adopt these regulations  
24 when the subsistence preference requires a reduction in the harvest of  
25 a fish stock or game population by nonsubsistence users.

26 \* Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
28 or possession of fish, shellfish, or other fisheries resources by a  
29 resident domiciled in a rural area of the state for subsistence uses

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 \* Sec. 8. AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence of having had a permanent  
20 home in a particular location for the preceding 12 consecutive months  
21 or other evidence acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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 Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional taking and use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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S.R.C.

WORK DRAFT

2/7/86

Offered: 2/5/86  
Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding <sup>a</sup>new paragraph<sup>s</sup> to read:

15 [~~(12) designating and regulating special fishing areas,~~  
16 ~~including personal use areas, trophy management areas, catch and~~  
17 ~~release areas, and children's fishing areas, and designating stocks in~~  
18 ~~those areas for which special management is appropriate;]~~

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

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunt<sup>ing</sup> and subsistence hunt<sup>ing</sup> as needed  
24 for the conservation, development, and utilization of game [and nongame-  
25 species.]

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, [~~sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations~~] the boards  
6 shall determine

7 (1) <sup>If a portion</sup> [~~whether there exists a harvestable surplus~~] of the <sup>may be harvested</sup>  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the <sup>harvestable portion</sup> [~~surplus~~] is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able <sup>portion</sup> [~~surplus~~] is determined to exist under (b)(1) of this section. If  
15 a <sup>harvestable portion</sup> [~~surplus~~] is not sufficient to accommodate all consumptive uses of the  
16 <sup>harvestable portion</sup> [~~surplus~~] but is sufficient to accommodate subsistence uses of the  
17 <sup>harvestable portion</sup> [~~surplus~~] then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the <sup>harvestable portion</sup> [~~surplus~~]

21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure <sup>sustained yield</sup> [~~sound management~~] or <sup>continue</sup> [~~protect future~~] subsis-  
23 tence <sup>uses</sup> [~~fishing or subsistence hunting~~], then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 EIX (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 ~~[(i) The boards, after consulting with the department, shall~~  
19 ~~adopt regulations defining "maintenance of healthy populations of fish~~  
20 ~~and game," "sound management principles," "sustained yield," and~~  
21 ~~"harvestable surplus."]~~

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 ~~[subsistence or personal use]~~ regulation.

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

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

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

9 ~~[(d) With the assistance of the department, the boards shall~~  
10 ~~provide reasonable public notice of the following information to users~~  
11 ~~of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be~~  
14 ~~taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit.~~

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601--1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) ~~The commissioner shall administer subsistence permit pro-~~  
21 ~~grams that may be established. The commissioner may appoint state~~  
22 ~~employees or other persons to take applications and issue permits and~~  
23 ~~tags. A person appointed by the commissioner may administer oaths for~~  
24 ~~permit and tag applications. The commissioner or the appropriate~~  
25 ~~board may require a report from persons using a permit concerning the~~  
26 ~~time, manner, and place of taking fish and game, the kinds and quanti-~~  
27 ~~ty taken, and other information helpful in administering the fish and~~  
28 ~~game resources of the state. Except for state employees, a person~~  
29 ~~appointed by the commissioner under this subsection is entitled to~~

1 ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2 ~~whichever is greater.]~~

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area,

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game [animals] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

ADD definitions of:  
SUSTAINED YIELD  
PERSONAL USE Fishing

HEADINGS TITLE 16.

Fish and Game.

CHAPTER 05.

Fish and Game Code.

ARTICLE 2.

Boards of Fisheries and Game.

Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES.

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

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

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

(3) setting quotas, bag limits, harvest levels, and sex

and size limitations on the taking of fish;

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

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

(6) classifying as commercial fish, sport fish or predators or other categories essential for regulatory purposes;

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

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

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

(10) establishing seasons, areas, quotas and methods of

harvest for aquatic plants;

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

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

Sec. 16.05.255. REGULATIONS OF THE BOARD OF GAME.

(a) The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

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

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

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

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

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

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

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

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

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the

adoption of the regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis.

Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct

dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

(c) If the Board of Game denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the

Sec. 16.05.257. SUBSISTENCE HUNTING REGULATIONS.

(a) The Board of Game, at its regularly scheduled annual meeting and other meetings held under authority of AS 16.05.300(a), shall consider and may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

(1) recommendation of the department, based on biological evidence;

(2) the recommendation of the active local advisory committees for that game management unit or subunit or a portion of a unit or subunit;

(3) the written petition of not less than 100 interested residents of that game management unit or subunit;  
or

(4) the written petition of not less than 25 interested residents of an area which is requested for establishment as a subsistence area within a game management unit or subunit.

(b) The regulations may include but are not limited to the

(1) the establishment of subsistence hunting areas;

(2) the regulation of transportation methods and means to protect subsistence hunting within subsistence hunting areas, including the prohibition or limitation of pack animals, mechanized vehicles and aircraft, other than watercraft or wheeled vehicles operating on a road maintained by public funds;

(3) the establishment of open and closed seasons and areas to protect subsistence hunting;

(4) the limitation of hunting to only one sex of the animal.

(c) Regulations may not be adopted by the Board of Game under (a), (b) or (f) of this section unless, in addition to the requirements of AS 44.62.180 44.62.290, the department

(1) holds public hearings, after reasonable notice, at least 30 days before the meeting at which the regulation is to be adopted, with at least one of the hearings being held in close proximity to the area potentially affected;

(2) presents at the hearings the information provided

(3) makes the information provided for in (e) of this section available to the appropriate advisory committees and to petitioners if consideration of adoption of regulations was prompted by petitions under (a)(3) or (4) of this section; comments shall be received by the board until 10 days before any adoption of regulations.

(d) A petition submitted under (a)(3) - (4) of this section shall contain a complete description of the area requested as a subsistence area and a specification of the species within the area considered necessary for subsistence use. A petition or recommendation made under (a)(2), (3) or (4) of this section must be filed with the department at least 75 days before the meeting of the board at which the petition or recommendation is to be considered.

(e) The department shall investigate, by collecting existing data, and, when necessary, conducting new studies, every petition or recommendation made under (a)(2), (3) or (4) of this section to the extent practicable within the time available and provide the following information:

(1) the concentration of the species to be affected and carrying capacity of the area to be affected;

(2) the current hunting practices in the area, including numbers of animals taken and by what methods and means and whether the take is subsistence or recreational;

(3) the dependence of persons in the area for subsistence use of a species;

(4) the population trends of the affected fish and game in the area;

(5) whether the affected fish and game population is able to support a nonsubsistence harvest; and

(6) other information considered necessary by the section of subsistence hunting and fishing.

(f) The Board of Game at any time may review and change the boundaries of a subsistence area upon

(1) the recommendation of the department, based on biological evidence;

(2) the written petition of not less than 25 interested residents of that area; or

(3) the majority vote of the active local advisory committees for that area.

(g) The department shall submit a report to the legislature during the first 10 days of each legislative session beginning after January 1, 1977. The report shall include, but is not limited to, a listing of the specific subsistence areas established or modified during the preceding year and the species subject to subsistence use within those areas.

(h) In this section

(1) "subsistence hunting" means the taking of game animals by a state resident for subsistence uses by means defined by the Board of Game;

(2) "subsistence hunting area" means an area in which only subsistence hunting of the affected species is permitted and which is managed for maximum food potential.

(i) The Board of Game may not make a decision denying, creating or changing a subsistence hunting area unless the decision is based on specific written findings of fact regarding all the information provided in accordance with (e) of this section.

Sec. 16.05.930. EXEMPTED ACTIVITIES.

(a) This chapter does not prevent the collection or

exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit which the department may issue and prescribe the terms thereof.

- (b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.
  
- (c) AS 16.05.920 does not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations adopted by the appropriate board. In this subsection, "animals" includes all animal life, including insects and bugs.
  
- (d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the Department of Fish and Game examining the probable environmental impact of the action.

- (e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.
- (f) A permit may not be required for possessing, importing or exporting mink and fox for fur farming purposes.

Sec. 16.05.940. DEFINITIONS.

In AS 16.05 - AS 16.40

(1) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(2) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other

than money if the exchange is of a limited and noncommercial nature;

(3) "a board" means either the Board of Fisheries or the Board of Game;

(4) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(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;

(6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(7) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxer bison, and reindeer, if they are lawfully owned;

(9) "fish" means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(10) "fish derby" means a contest in which prizes are awarded for catching fish;

(11) "fishing derby association" means a civic, service, or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(13) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person's own use;

(14) "game" means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 and 16.40;

(15) "hunting" means the taking of game under AS 16.05 - AS 16.40 and the regulations adopted under those chapters;

(16) "nonresident" means a person who is not a resident

of the state;

(17) "nonresident alien" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(18) "operator" means the individual by law made responsible for the operation of the vessel;

(19) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this paragraph, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this paragraph, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this paragraph;

(20) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure

under AS 16.05 - AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(21) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(22) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(23) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the

household on a permanent basis;

(24) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(25) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(26) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(27) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

amendment

Halford Ver.  
Hein  
4/3/86 ✓

Page 4

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

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12 use fish, subsistence fish, or predators or other categories essential  
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14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

7 (5) the importance of each fishery to the economy of the  
8 state;

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

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

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

17 (d) Regulations adopted under (a) of this section shall provide  
18 that, consistent with the provisions of AS 16.05.258, the taking of  
19 moose, deer, elk, and caribou by residents for personal or family  
20 consumption has preference over taking by nonresidents.

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and population  
29 identified under (a) of this section can be harvested consistent wit

1 sustained yield; and

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

5 (c) The boards shall adopt subsistence fishing and subsistence  
6 hunting regulations for each stock and population for which a harvest-  
7 able portion is determined to exist under (b)(1) of this section. If  
8 the harvestable portion is not sufficient to accommodate all consump-  
9 tive uses of the stock or population, but is sufficient to accommodate  
10 subsistence uses of the stock or population, then nonwasteful subsis-  
11 tence uses shall be accorded a preference over other consumptive uses,  
12 and the regulations shall provide a reasonable opportunity to satisfy  
13 the subsistence uses. If the harvestable portion is sufficient to  
14 accommodate the subsistence uses of the stock or population, then the  
15 boards may provide for other consumptive uses of the remainder of the  
16 harvestable portion. If it is necessary to restrict subsistence  
17 fishing or subsistence hunting in order to assure sustained yield or  
18 continue subsistence uses, then the preference shall be limited, and  
19 the boards shall distinguish among subsistence users, by applying the  
20 following criteria:

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

23 (2) local residency; and

24 (3) availability of alternative resources.

25 (d) The boards may adopt regulations consistent with this sec-  
26 tion that authorize taking for nonsubsistence uses a stock or popula-  
27 tion identified under (a) of this section.

28 (e) Fish stocks and game populations, including bison, o-  
29 portions of fish stocks and game populations, not identified under (a)

1 of this section may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
3 able regulation of seasons, catch or bag limits, and methods and  
4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

6 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
7 and the Board of Game, acting jointly, may establish by regulation an  
8 appeal procedure for persons aggrieved by the adoption or repeal of a  
9 regulation.

10 \* Sec. 7. AS 16.05 is amended by adding new sections to read:

11 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
12 the taking of fish or game in violation of a statute or regulation, it  
13 is not a defense that the taking was done for subsistence uses.

14 \* Sec. 16.05.262. SUBSISTENCE LICENSE. (a) The department shall  
15 issue a subsistence license to a resident domiciled in a rural area of  
16 the state who

17 (1) applies for the license on a form provided by the  
18 department;

19 (2) pays an annual license fee of 25 cents; and

20 (3) presents proof that the applicant's annual family gross  
21 income for the preceding calendar year was below the official federal  
22 poverty line established by the director of the federal Office of  
23 Management and Budget, as revised by the Secretary of Health and Human  
24 Services under 42 U.S.C. 9847 and 9902.

25 (b) A subsistence license expires one year after the date of  
26 issuance.

27 Sec. 16.05.263. LICENSE REQUIRED FOR SUBSISTENCE TAKINGS. A  
28 person who takes fish or game for subsistence uses shall have in  
29 possession a current, valid subsistence license that was issued under

1 AS 16.05.262 to the person or to another individual for whose benefit  
2 the person is taking the fish or game.

3 \* Sec. 8. AS 16.05.330 is amended by adding a new subsection to read:

4 (c) The Board of Fisheries and the Board of Game may adopt  
5 regulations providing for the issuance and expiration of subsistence  
6 permits for rural areas as needed for authorizing, regulating, and  
7 monitoring the subsistence harvest of fish and game. The boards shall  
8 adopt these regulations when the subsistence preference requires a  
9 reduction in the harvest of a fish stock or game population by nonsub-  
10 sistence users.

11 \* Sec. 9. AS 16.05.940(22) is amended to read:

12 (22) "subsistence fishing" means the taking of, fishing for,  
13 or possession of fish, shellfish, or other fisheries resources by a  
14 resident domiciled in a rural area of the state for subsistence uses  
15 with gill net, seine, fish wheel, long line, or other means defined by  
16 the Board of Fisheries;

17 \* Sec. 10. AS 16.05.940(23) is amended to read:

18 (23) "subsistence uses" means the noncommercial, customary  
19 and traditional uses [IN ALASKA] of wild, renewable resources by a  
20 resident domiciled in a rural area of the state for direct personal or  
21 family consumption as food, shelter, fuel, clothing, tools, or trans-  
22 portation, for the making and selling of handicraft articles out of  
23 nonedible by-products of fish and wildlife resources taken for per-  
24 sonal or family consumption, and for the customary trade, barter, or  
25 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
26 this paragraph, "family" means [ALL] persons related by blood, mar-  
27 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
28 hold on a permanent basis;

29 \* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

1 (28) "domicile" means the true and permanent home of a  
2 person from which the person has no present intention of moving and to  
3 which the person intends to return whenever the person is away; domi-  
4 cile may be proved by presenting evidence acceptable to the boards of  
5 fisheries and game;

6 (29) "fish stock" means a species, subspecies, geographic  
7 grouping or other category of fish manageable as a unit;

8 (30) "game population" means a group of game animals of a  
9 single species or subgroup manageable as a unit;

10 (31) "personal use fishing" means the taking, fishing for,  
11 or possession of finfish, shellfish, or other fishery resources, by  
12 Alaska residents for personal use and not for sale or barter, with  
13 gill or dip net, seine, fish wheel, long line, or other means defined  
14 by the Board of Fisheries;

15 (32) "rural area" means a community or area of the state in  
16 which the noncommercial, customary, and traditional use of fish or  
17 game for personal or family consumption is a principal characteristic  
18 of the economy of the community or area;

19 (33) "subsistence hunting" means the taking of, hunting for,  
20 or possession of game by a resident domiciled in a rural area of the  
21 state for subsistence uses by means defined by the Board of Game.

22 \* Sec. 12. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

23 \* Sec. 13. This Act takes effect June 1, 1986.

Hein  
2/26/86 ✓

Original sponsor: Rules/Governor

*Committee Response*

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 purposes in each rural area identified by the boards. *Mary Bushy*

27 Consistent with sustained yield, the boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested; and

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

4 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then subsistence uses  
10 shall be accorded a preference over other consumptive uses, and the  
11 regulations shall provide a reasonable opportunity to satisfy the  
12 subsistence uses. If the harvestable portion is sufficient to accom-  
13 modate the subsistence uses of the stock or population, then the  
14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:

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

22 (2) local residency; and

23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to reason-  
 2 able regulation of seasons, catch or bag limits, and methods and  
 3 means. Takings and uses of resources authorized under this section  
 4 are subject to AS 16.05.831 and AS 16.30.

5 (g) The implementation of a subsistence preference under this  
 6 section does not affect the eligibility of active duty military per-  
 7 sonnel, while stationed in the state for more than 30 days, to fish,  
 8 hunt, or trap on military installations and facilities in the state  
 9 under 10 U.S.C. 2671.

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
 11 and the Board of Game, acting jointly, may establish by regulation an  
 12 appeal procedure for persons aggrieved by the adoption or repeal of a  
 13 regulation.

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

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
 16 the taking of fish or game in violation of a statute or regulation, it  
 17 is not a defense that the taking was done for subsistence uses.

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

19 (c) The Board of Fisheries and the Board of Game may adopt  
 20 regulations providing for the issuance and expiration of subsistence  
 21 permits for areas, villages, communities, groups, or individuals as  
 22 needed for authorizing, regulating and monitoring the subsistence  
 23 harvest of fish and game. The boards shall adopt these regulations  
 24 when the subsistence preference requires a reduction in the harvest of  
 25 a fish stock or game population by nonsubsistence users.

26 \* Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
 28 or possession of fish, shellfish, or other fisheries resources by a  
 29 resident domiciled in a rural area of the state for subsistence uses

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 \* Sec. 8. AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence of having had a permanent  
20 home in a particular location for the precedi \_ \_ consecutive months  
21 or other evidence acceptable to the boards of fish and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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

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1 by the Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional taking and use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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AS 16.05.251 is amended by adding new subsections to read:

(c) Regulations adopted under (a) of this section shall provide that, consistent with the provisions of AS 16.05.258, commercial, sport and personal use fishermen are provided a fair and reasonable opportunity to participate in the harvest of fish.

(d) In the development of fisheries area management plans which make major allocations among the commercial, sport and personal use fishing categories, the Board of Fisheries shall establish criteria upon which such allocation decisions are based.

Letter of Intent:

This legislation establishes a statutory definition of "personal use fishing." Sport, commercial and personal use fishing are not afforded priorities in relation to one another. The Legislature intends to delegate to the Alaska Board of Fisheries adequate regulatory authority to provide Alaskans with a reasonable opportunity to participate in commercial, sport and personal use fishing.

In addressing the needs of commercial, sport and personal use fishing user groups in a particular area, the Board of Fisheries may make allocations from discrete stocks of fish. The board does not have to make allocations to each user group from each stock of fish or river system.

The Legislature has directed the Board of Fisheries to develop criteria upon which major allocation decisions among commercial, sport and personal use fishing categories should be based. The criteria should include factors such as the following: the historical importance of each fishery, number of persons expected to participate, availability of alternative resources, importance of each fishery to the local and state economies, and importance of each fishery for providing Alaskans the opportunity to fish for personal consumption or recreation.

2/7/86

Offered: 2/5/86  
 Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
 2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
 7 subsistence and personal use; and providing for an  
 8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
 12 use fish, subsistence fish, or predators or other categories essential  
 13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding<sup>a</sup> new paragraphs<sup>s</sup> to read:

15 ~~[(12) designating and regulating special fishing areas,~~  
 16 ~~including personal use areas, trophy management areas, catch and~~  
 17 ~~release areas, and children's fishing areas, and designating stocks in~~  
 18 ~~those areas for which special management is appropriate.]~~

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

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunt<sup>ing</sup> and subsistence hunt<sup>ing</sup> as needed  
 24 for the conservation, development, and utilization of game [and nongame  
 25 species.]

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
 29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, ~~[sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations]~~ the boards  
6 shall determine <sup>what</sup> ~~if a~~ portion, if any,

7 (1) ~~[whether there exists a harvestable surplus]~~ of the <sup>can be harvested</sup>  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the <sup>harvestable portion</sup> ~~[surplus]~~ is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able <sup>portion</sup> ~~[surplus]~~ is determined to exist under (b)(1) of this section. If  
15 a <sup>harvestable portion</sup> ~~[surplus]~~ is not sufficient to accommodate all consumptive uses of the  
16 <sup>harvestable portion</sup> ~~[surplus]~~, but is sufficient to accommodate subsistence uses of the  
17 <sup>harvestable portion</sup> ~~[surplus]~~ then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the <sup>harvestable portion</sup> ~~[surplus]~~, and may pro-  
20 vide opportunities <sup>for</sup> ~~[to satisfy]~~ other consumptive uses of the <sup>harvestable portion</sup> ~~[surplus]~~.  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure <sup>sustained yield</sup> ~~[sound management]~~ or <sup>continue</sup> ~~[protect future]~~ subsis-  
23 tence <sup>uses</sup> ~~[fishing or subsistence hunting]~~, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 EIX (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 ~~[(i) The boards, after consulting with the department, shall~~  
19 ~~adopt regulations defining "maintenance of healthy populations of fish~~  
20 ~~and game," "sound management principles," "sustained yield," and~~  
21 ~~"harvestable surplus."]~~

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 ~~[subsistence or personal use]~~ regulation.

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

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

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

9 ~~[(d) With the assistance of the department, the boards shall~~  
10 ~~provide reasonable public notice of the following information to users~~  
11 ~~of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be~~  
14 ~~taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit;~~

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601--1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) ~~The commissioner shall administer subsistence permit pro-~~  
21 ~~grams that may be established. The commissioner may appoint state~~  
22 ~~employees or other persons to take applications and issue permits and~~  
23 ~~tags. A person appointed by the commissioner may administer oaths for~~  
24 ~~permit and tag applications. The commissioner or the appropriate~~  
25 ~~board may require a report from persons using a permit concerning the~~  
26 ~~time, manner, and place of taking fish and game, the kinds and quanti-~~  
27 ~~ty taken, and other information helpful in administering the fish and~~  
28 ~~game resources of the state. Except for state employees, a person~~  
29 ~~appointed by the commissioner under this subsection is entitled to~~

1 ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2 ~~whichever is greater.]~~

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1 (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3 (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7 (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game [animals] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

ADD definitions of:  
~~SUSTAINABLE~~  
PERSONAL USE Fishing

Hein  
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 purposes in each rural area identified by the boards.

27 (b) Consistent with sustained yield, the boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested; and

*Amended  
to include  
subsistence  
and game  
stocks*

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 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then subsistence uses  
10 shall be accorded a preference over other consumptive uses, and the  
11 regulations shall provide a reasonable opportunity to satisfy the  
12 subsistence uses. If the harvestable portion is sufficient to accom-  
13 modate the subsistence uses of the stock or population, then the  
14 *need* boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:

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

22 (2) local residency; and

23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 *Becky*  
*Spind* stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to reason-  
 2 able regulation of seasons, catch or bag limits, and methods and  
 3 means. Takings and uses of resources authorized under this section  
 4 are subject to AS 16.05.831 and AS 16.30.

5 (g) The implementation of a subsistence preference under this  
 6 section does not affect the eligibility of active duty military per-  
 7 sonnel, while stationed in the state for more than 30 days, to fish,  
 8 hunt, or trap on military installations and facilities in the state  
 9 under 10 U.S.C. 2671.

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
 11 and the Board of Game, acting jointly, may establish by regulation an  
 12 appeal procedure for persons aggrieved by the adoption or repeal of a  
 13 regulation.

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

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
 16 the taking of fish or game in violation of a statute or regulation, it  
 17 is not a defense that the taking was done for subsistence uses.

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

19 (c) The Board of Fisheries and the Board of Game may adopt  
 20 regulations providing for the issuance and expiration of subsistence  
 21 permits for areas, villages, communities, groups, or individuals as  
 22 needed for authorizing, regulating and monitoring the subsistence  
 23 harvest of fish and game. The boards shall adopt these regulations  
 24 when the subsistence preference requires a reduction in the harvest of  
 25 a fish stock or game population by nonsubsistence users.

26 \* Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
 28 or possession of fish, shellfish, or other fisheries resources by a  
 29 resident domiciled in a rural area of the state for subsistence uses

*Handwritten notes:*  
 1-4: *direct military*  
 5-9: *red land*  
 10-13: *Administrative appeal*  
 14-17: *optional*  
 18-29: *Subsistence permits*

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 \* Sec. 8. AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence of having had a permanent  
20 home in a particular location for the preceding 12 consecutive months  
21 or other evidence acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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 Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional taking and use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 288 (Judiciary) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the taking of fish stocks and game populations for personal  
12 and family consumption and related uses is essential to the health, safety,  
13 and general welfare of Alaskans domiciled in rural communities or rural  
14 areas in which the taking of fish and game for such uses is a significant  
15 part of the economy of the community or area; and

16 (2) the taking of fish stocks and game populations for personal,  
17 sport, and commercial uses is also of economic and recreational importance  
18 to Alaskans who reside anywhere in the state.

19 \* Sec. 2. AS 16.05.251(a) is amended to read:

20 (a) The Board of Fisheries may adopt regulations it considers  
21 advisable in accordance with the Administrative Procedure Act (AS 44.-  
22 62) for

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

26 (2) establishing open and closed seasons and areas for the  
27 taking of fish;

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

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

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

5 (6) classifying as commercial fish, sport fish, personal  
6 use fish, or predators or other categories essential for regulatory  
7 purposes;

8 (7) watershed and habitat improvement, and management,  
9 conservation, protection, use, disposal, propagation and stocking of  
10 fish;

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

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

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

19 (11) establishing the times and dates during which the  
20 issuance of fishing licenses, permits and registrations and the trans-  
21 fer of permits and registrations between registration areas is  
22 allowed; however, this paragraph does not apply to permits issued or  
23 transferred under AS 16.43;

24 (12) personal use fishing.

25 \* Sec. 3. AS 16.05.940(23) is amended to read:

26 (23) "subsistence uses" means the customary and traditional  
27 noncommercial uses [IN ALASKA] of wild, renewable resources by a  
28 resident domiciled in a rural area of the state for direct personal or  
29 family consumption as food, shelter, fuel, clothing, tools, or

1 transportation, for the making and selling of handicraft articles out  
2 of nonedible by-products of fish and wildlife resources taken for  
3 personal or family consumption, and for the customary trade, barter,  
4 or sharing for personal or family consumption; in [FOR THE PURPOSES  
5 OF] this paragraph [.]

6 (A) "family" means all persons related by blood,  
7 marriage, or adoption, and any person living within the household  
8 on a permanent basis;

9 (B) "rural area" means a community or area of the  
10 state in which the taking of fish or wildlife for personal or  
11 family consumption is a significant characteristic of the economy  
12 of the community or area;

13 \* Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

14 (28) "personal use fishing" means the taking, fishing for,  
15 or possession of finfish, shellfish, or other fishery resources, by  
16 Alaska residents for personal use and not for sale or barter, with  
17 gill or dip net, seine, fish wheel, long line, or other similar means  
18 defined by the Board of Fisheries.

19 \* Sec. 5. The legislature shall independently assess the impacts of  
20 sections 1 - 4 during the period from May 13, 1985 through January 1, 1986  
21 to determine the nature of any disruptions to the lawful resident taking of  
22 fish and game caused by the definitions of "subsistence uses" or "rural  
23 area." Before January 1, 1986, the Department of Fish and Game shall  
24 report in writing to the legislature on the effects of sections 1 - 4.  
25 Before May 15, 1986, the legislature will take corrective action to address  
26 any such disruptions identified by either legislative or administrative  
27 assessment.

28 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
29 10.070(c).

Original sponsor: Rules/Governor

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IN THE HOUSE

BY THE RESOURCES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the taking of fish and game for subsistence and personal use; and providing for an effective date."

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

\* Section 1. FINDINGS. The legislature finds that

(1) nonresidents visiting Alaska take fish stocks and game populations primarily for commercial, trophy, and recreational purposes; Alaska residents, who take fish stocks and game populations for noncommercial purposes, use the stocks and populations primarily for food for personal or family consumption;

(2) the taking of fish stocks and game populations by residents for personal or family consumption is important to the health, safety, and general well-being of all Alaska residents;

(3) the customary and traditional use of local fish stocks and game populations in rural areas of the state is a significant characteristic of the economy of many Alaskan communities and areas because it is cost effective and important to the health, safety, and general well-being of Alaskans;

(4) the taking of fish stocks and game populations for commercial, recreational, and other uses by both residents and nonresidents is important to the economy of the state and particularly to the economies of communities dependent upon commercial fishing; and

(5) commercial fishermen often use a portion of their catch for personal use.

1 \* Sec. 2. AS 16.05.251(a) is amended to read:

2 (a) The Board of Fisheries may adopt regulations it considers  
3 advisable in accordance with the Administrative Procedure Act (AS 44.-  
4 62) for

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

8 (2) establishing open and closed seasons and areas for the  
9 taking of fish;

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

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

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

16 (6) classifying as commercial fish, sport fish, personal  
17 use fish, subsistence fish, or predators or other categories essential  
18 for regulatory purposes;

19 (7) watershed and habitat improvement, and management,  
20 conservation, protection, use, disposal, propagation and stocking of  
21 fish;

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

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

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

1 (11) establishing the times and dates during which the  
2 issuance of fishing licenses, permits and registrations and the trans-  
3 fer of permits and registrations between registration areas is al-  
4 lowed; however, this paragraph does not apply to permits issued or  
5 transferred under AS 16.43;

6 (12) regulating selected stocks for catch-and-release sport  
7 fishing;

8 (13) regulating commercial, sport, personal use, and subsis-  
9 tence fishing.

10 \* Sec. 3. AS 16.05.251(b) is repealed and reenacted to read:

11 (b) Whenever it is necessary to restrict the taking of a fish  
12 stock to assure the maintenance of the stock on a sustained-yield  
13 basis, the taking of the stock by residents for personal and family  
14 consumption shall be a priority use of the harvestable surplus of the  
15 stock. To implement this priority, the Board of Fisheries shall  
16 establish a mandatory allocation that ensures all residents a reason-  
17 able opportunity for sport or personal use fishing in all established  
18 sport and personal use fisheries, and shall adopt regulations au-  
19 thorizing the taking in accordance with the Administrative Procedure  
20 Act (AS 44.62), unless the regulations will jeopardize or interfere  
21 with the maintenance of a fish stock on a sustained-yield basis or  
22 with the continuance of subsistence. The harvestable surplus of fish  
23 stocks in excess of this mandatory allocation shall be allocated among  
24 uses by the board as it finds appropriate. Takings authorized under  
25 this subsection are subject to reasonable regulation of seasons, catch  
26 limits, and methods and means.

27 \* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

28 (d) The Board of Fisheries shall adopt regulations in accordance  
29 with the Administrative Procedure Act (AS 44.62) permitting the taking

1 of fish stocks for subsistence uses unless the board determines that  
2 adoption of the regulations will jeopardize or interfere with the  
3 maintenance of a fish stock on a sustained-yield basis. Whenever it  
4 is necessary to restrict the taking of a fish stock to assure the  
5 maintenance of the stock on a sustained-yield basis, or to assure the  
6 continuation of subsistence uses of the stock, subsistence shall be  
7 the priority use. Takings authorized under this subsection are sub-  
8 ject to reasonable regulation of seasons, bag limits, and methods and  
9 means.

10 (e) If the harvestable surplus of a fish stock is not large  
11 enough to provide a reasonable opportunity for the taking of fish from  
12 the stock for subsistence uses, the board shall adopt regulations that  
13 establish restrictions and limitations on the taking of fish from the  
14 stock for subsistence uses on the basis of the following criteria:  
15 (1) customary and direct dependence upon the fish stock as the main-  
16 stay of one's livelihood; (2) local residency; and (3) availability of  
17 alternative resources. Subsistence fishing authorized under this  
18 subsection is subject to reasonable regulation of seasons, bag limits,  
19 and methods and means.

20 \* Sec. 5. AS 16.05.255(a) is amended to read:  
21

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

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

28 (2) establishing open and closed seasons and areas for the  
29 taking of game;

(3) establishing the means and methods employed in the

1 pursuit, capture and transport of game;

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

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

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

8 (7) watershed and habitat improvement, and management,  
9 conservation, protection, use, disposal, propagation and stocking of  
10 game;

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

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

17 (10) regulating sport and subsistence hunts.

18 \* Sec. 6. AS 16.05.255(b) is repealed and reenacted to read:

19 (b) The Board of Game shall establish a mandatory allocation  
20 that ensures all residents a reasonable opportunity for the taking of  
21 game for personal or family consumption, and shall adopt regulations  
22 authorizing the taking in accordance with the Administrative Procedure  
23 Act (AS 44.62), unless the regulations will jeopardize or interfere  
24 with the maintenance of a game population on a sustained-yield basis  
25 or with the continuance of subsistence. Takings authorized under this  
26 subsection are subject to reasonable regulation of seasons, bag lim-  
27 its, and methods and means.

28 \* Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

29 (d) The Board of Game shall adopt regulations in accordance with

1 the Administrative Procedure Act (AS 44.62) permitting the taking of  
2 game populations for subsistence uses unless the board determines that  
3 adoption of the regulations will jeopardize or interfere with the  
4 maintenance of a game population on a sustained-yield basis. Whenever  
5 it is necessary to restrict the taking of a game population to assure  
6 the maintenance of the population on a sustained-yield basis, or to  
7 assure the continuation of subsistence uses of the population, subsis-  
8 tence shall be the priority use. Takings authorized under this sub-  
9 section are subject to reasonable regulation of seasons, bag limits,  
10 and methods and means.

11 (e) If the harvestable surplus of a game population is not large  
12 enough to provide a reasonable opportunity for the taking of game from  
13 the population for subsistence uses, the board shall adopt regulations  
14 that establish restrictions and limitations on the taking of game from  
15 the population for subsistence uses on the basis of the following  
16 criteria: (1) customary and direct dependence upon the population as  
17 the mainstay of one's livelihood; (2) local residency; and (3) avail-  
18 ability of alternative resources. Subsistence hunting authorized  
19 under this subsection is subject to reasonable regulation of seasons,  
20 bag limits, and methods and means.

21 \* Sec. 8. AS 16.05.940(21) is amended to read:

22 (21) "sport fishing" means the taking of or attempting to  
23 take for personal use or for personal or family consumption, and not  
24 for sale or barter, any fresh water, marine, or anadromous fish by  
25 hook and line held in the hand, or by hook and line with the line  
26 attached to a pole or rod that [WHICH] is held in the hand or closely  
27 attended, or by other means defined by the Board of Fisheries;

28 \* Sec. 9. AS 16.05.940(23) is repealed and reenacted to read:

29 (23) "subsistence uses" means the customary, traditional and

1 cost-effective taking and use in a rural area, by an Alaska resident,  
2 of wild, renewable resources for direct personal or family consumption  
3 as food, shelter, fuel, clothing, tools, or transportation, for the  
4 making and selling of handicraft articles out of nonedible by-products  
5 of fish and wildlife resources taken for personal or family consump-  
6 tion, and for the noncommercial customary trade, barter, or sharing  
7 for personal or family consumption; wild and renewable resources taken  
8 for subsistence uses may be used only in the same area in which they  
9 are taken; in this paragraph,

10 (A) "family" means persons related by blood, marriage,  
11 or adoption, and persons living in the household on a permanent  
12 basis;

13 (B) "rural area" means a historic hunting or fishing  
14 area associated with a community or area in which the taking of  
15 fish stocks and game populations for personal and family consump-  
16 tion is a significant characteristic of the economy of the commu-  
17 nity or area;

18 Sec. 10. AS 16.05.940 is amended by adding a new paragraph to read:

19 (28) "personal use fishing" means the taking, or attempting  
20 to take by Alaska residents for personal or family consumption and not  
21 for sale or barter, finfish, shellfish, or other fishery resources  
22 with gill net, dip net, seine, pot, fish wheel, long line, or other  
23 similar means defined by the Board of Fisheries.

24 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).  
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Offered: 4/19/85  
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 288 (Judiciary) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for

7

subsistence and personal use; and providing for an

8

effective date."

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

\* Section 1. FINDINGS. The legislature finds that

10

11

(1) the continuation of the opportunity for nonwasteful subsistence uses by many Alaskans is important and in many cases essential to their physical, traditional, cultural, and social existence, and that in certain instances no practical alternative resources or means are available to replace food, supplies, and other items gathered from fish and wildlife that supply rural residents dependent on subsistence uses;

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(2) in order to protect subsistence users, to protect sport and commercial uses of fish and wildlife, and to maintain healthy fish and wildlife populations available to subsistence, sport, and commercial users, it is necessary for the Board of Fisheries and the Board of Game to have authority, only for the 1985 fishing and hunting seasons and until February 28, 1986, to regulate subsistence fishing and hunting in the manner in which they were regulated in 1984;

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(3) conservation of fish and wildlife during the 1985 season and thereafter will be furthered if the legislature is unhurried in its consideration of complicated social, political, and biological questions related to subsistence; by February 28, 1986 the legislature should be able to consider, after statewide hearings, more complicated subsistence issues that cannot be adequately considered in the remaining days of the

2 \* Sec. 2. SUBSISTENCE CRITERIA. Until February 28, 1986, and in accor  
3 dance with the Administrative Procedure Act (AS 44.62), the Board o  
4 Fisheries and the Board of Game may adopt regulations in order to identif  
5 customary and traditional subsistence uses by Alaskans by using the crite-  
6 ria set out in the regulations in effect in 1984 and found at 5 AAC 99.010  
7 and 5 AAC 01.597 and those criteria are hereby established for the 1985  
8 fishing and hunting seasons.

9 \* Sec. 3. EMERGENCY <sup>Orders & Regulations</sup> REGULATIONS. For the 1985 fishing and nunting  
10 seasons, the commissioner of fish and game shall use the authority, in  
11 AS 16.05.060, <sup>and AS 44.62.250</sup> to issue emergency <sup>orders and</sup> regulations in order to provide for sub-  
12 sistence as it occurred in 1984; provided however, that in this instance a  
13 biological emergency need not exist as is otherwise required by AS 16.05.-  
14 060.

15 \* Sec. 4. SUBSISTENCE USES. Until February 28, 1986, only those sub-  
16 sistence uses specified by statute or by regulations of the board of fish-  
17 eries or the board of game are authorized.

18 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
19 10.070(c).  
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Introduced: 3/13/85  
Referred: State Affairs, Resources,  
Judiciary and Finance

377-176-85

*referred in house = resources and judiciary*

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 231 (House bill 238)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

9

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

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\* Section 1. FINDINGS. The legislature finds that

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(1) the taking of fish stocks and game populations for

12

personal and family consumption and related uses is essential to the

13

health, safety, and general welfare of Alaskans domiciled in rural

14

communities or rural areas in which the taking of fish and game for

15

such uses is a significant part of the economy of the community or

16

area; and

17

(2) the taking of fish stocks and game populations for

18

personal, sport, and commercial uses is also of economic and recre-

19

ational importance to Alaskans who reside anywhere in the state.

20

\* Sec. 2. AS 16.05.251(a) is amended to read:

21

(a) The Board of Fisheries may adopt regulations it considers

22

advisable in accordance with the Administrative Procedure Act (AS 44.-

23

62) for

24

(1) setting apart fish reserve areas, refuges and sanctu-

25

aries in the waters of the state over which it has jurisdiction,

26

subject to the approval of the legislature;

27

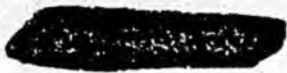
(2) establishing open and closed seasons and areas for the

28

taking of fish;

29

(3) setting quotas, bag limits, harvest levels, and sex and



1 size limitations on the taking of fish;

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

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

6 (6) classifying as commercial fish, sport fish, personal  
7 use fish, or predators or other categories essential for regulatory  
8 purposes;

9 (7) watershed and habitat improvement, and management,  
10 conservation, protection, use, disposal, propagation and stocking of  
11 fish;

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

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

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

20 (11) establishing the times and dates during which the  
21 issuance of fishing licenses, permits and registrations and the trans-  
22 fer of permits and registrations between registration areas is al-  
23 lowed; however, this paragraph does not apply to permits issued or  
24 transferred under AS 16.43;

25 (12) personal use fishing.

26 \* Sec. 3. AS 16.05.940(23) is amended to read:

27 (23) "subsistence uses" means the customary and traditional  
28 uses by rural [IN] Alaska residents of wild, renewable resources for  
29 direct personal or family consumption as food, shelter, fuel,

1 clothing, tools, or transportation, for the making and selling of  
2 handicraft articles out of nonedible by-products of fish and wildlife  
3 resources taken for personal or family consumption, and for the cus-  
4 tomary trade, barter, or sharing for personal or family consumption;  
5 for the purposes of this paragraph, "family" means all persons related  
6 by blood, marriage, or adoption, and any person living within the  
7 household on a permanent basis;

8 \* Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

9 (28) "personal use fishing" means the taking, fishing for,  
10 or possession of finfish, shellfish, or other fishery resources, by  
11 Alaska residents for personal use and not for sale or barter, with  
12 gill or dip net, seine, fish wheel, long line, or other similar means  
13 defined by the Board of Fisheries.

14 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

16

9/25/85

DISCUSSION  
DRAFT

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fishing and hunting."

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

8 \* Section 1. FINDINGS AND INTENT. (a) The legislature finds that

9 (1) hunting and fishing are important to residents of many  
10 small, remote communities in the state as a principal means of obtaining  
11 food;

12 (2) the Congress, in enacting the Alaska National Interest Lands  
13 Conservation Act, intended to ensure, in their words, "the continuation of  
14 the opportunity for subsistence uses by rural residents of Alaska" who are  
15 dependent on subsistence uses and for whom "no practical alternative means  
16 are available to replace the food supplies and other items gathered from  
17 fish and wildlife";

18 (3) even in communities in which there are practical alternative  
19 means of obtaining food, many residents rely on fishing and hunting to  
20 obtain a substantial portion of their food;

21 (4) the opportunity to fish and hunt is vitally important to  
22 many Alaskans throughout the state, not only for obtaining food, but also  
23 for the experience itself.

24 (b) It is the intent of the legislature

25 (1) to establish as a principle of resource management by the  
26 Board of Fisheries and the Board of Game a preference for subsistence uses  
27 of fish and game in those areas "where no practical alternative means are  
28 available to replace the food supplies and other items gathered from fish  
29 and wildlife which supply rural residents dependent on subsistence uses";

9/25/85

# DISCUSSION DRAFT

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4 FOURTEENTH LEGISLATURE - SECOND SESSION

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19 means of obtaining food, many residents rely on fishing and hunting to  
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26 Board of Fisheries and the Board of Game a preference for subsistence uses  
27 of fish and game in those areas "where no practical alternative means are  
28 available to replace the food supplies and other items gathered from fish  
29 and wildlife which supply rural residents dependent on subsistence uses";

9/25/85

DISCUSSION  
DRAFT

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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10 small, remote communities in the state as a principal means of obtaining  
11 food;

12 (2) the Congress, in enacting the Alaska National Interest Lands  
13 Conservation Act. intended to ensure, in their words, "the continuation of  
14 the opportunity for subsistence uses by rural residents of Alaska" who are  
15 dependent on subsistence uses and for whom "no practical alternative means  
16 are available to replace the food supplies and other items gathered from  
17 fish and wildlife";

18 (3) even in communities in which there are practical alternative  
19 means of obtaining food, many residents rely on fishing and hunting to  
20 obtain a substantial portion of their food;

21 (4) the opportunity to fish and hunt is vitally important to  
22 many Alaskans throughout the state, not only for obtaining food, but also  
23 for the experience itself.

24 (b) It is the intent of the legislature

25 (1) to establish as a principle of resource management by the  
26 Board of Fisheries and the Board of Game a preference for subsistence uses  
27 of fish and game in those areas "where no practical alternative means are  
28 available to replace the food supplies and other items gathered from fish  
29 and wildlife which supply rural residents dependent on subsistence uses";

1 and

2 (2) that the Board of Fisheries and the Board of Game have broad  
3 flexibility to manage the state's fish and game, and that they use this  
4 flexibility to ensure the sustained yield and best use of all fish stocks  
5 and game populations.

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

7 (a) The Board of Fisheries may adopt regulations it considers  
8 advisable in accordance with the Administrative Procedure Act  
9 (AS 44.62) for

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

13 (2) establishing open and closed seasons and areas for the  
14 taking of fish;

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

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

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

21 (6) classifying as commercial fish, sport fish, personal  
22 use fish, subsistence fish, or predators or other categories essenti  
23 for regulatory purposes;

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

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

1 state;

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

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

6 (11) establishing the times and dates during which the  
7 issuance of fishing licenses, permits and registrations and the trans-  
8 fer of permits and registrations between registration areas is  
9 allowed; however, this paragraph does not apply to permits issued or  
10 transferred under AS 16.43;

11 (12) regulating catch-and-release sport fishing for selected  
12 fish stocks;

13 (13) regulating commercial, sport, personal use, and subsis-  
14 tence fishing.

15 \* Sec. 3. AS 16.05.251(b) is amended to read:

16 (b) The Board of Fisheries shall adopt regulations in accordance  
17 with the Administrative Procedure Act (AS 44.62) for [PERMITTING] the  
18 taking of fish for subsistence uses unless the board determines, in  
19 accordance with the Administrative Procedure Act, that adoption of the  
20 regulations will jeopardize or interfere with the maintenance of fish  
21 stocks on a sustained-yield basis. Whenever it is necessary to re-  
22 strict the taking of fish to assure the maintenance of fish stocks on  
23 a sustained-yield basis, or to assure the continuation of subsistence  
24 uses of such resources, subsistence use shall be the preferred [PRI-  
25 ORITY] use. If further restriction is necessary, the board shall  
26 establish restrictions and limitations on and priorities for these  
27 consumptive uses on the basis of the following criteria:

28 (1) customary and direct dependence upon the resource as  
29 the mainstay of one's livelihood;

1 (2) local residency; and

2 (3) availability of alternative resources.

3 \* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

4 (d) Subsistence fishing authorized under this section is subject  
5 to reasonable regulation of seasons, catch limits, methods, and means.

6 (e) If the Board of Fisheries determines that (1) a particular  
7 fish stock is not a customary and traditional source or not a  
8 significant source of subsistence for rural subsistence area residents  
9 and (2) subsistence is not the best use of that fish stock, the board  
10 may provide that the fish stock may not be taken under subsistence  
11 regulations.

12 (f) The Board of Fisheries shall establish an appeal procedure  
13 for persons aggrieved by the adoption or repeal or enforcement of a  
14 subsistence fishing regulation. The aggrieved person must exhaust  
15 this administrative remedy before bringing a legal action challenging  
16 the regulation.

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

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

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

24 (2) establishing open and closed seasons and areas for the  
25 taking of game;

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

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

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

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

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

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

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

14 (10) regulating sport hunts and subsistence hunts.

15 \* Sec. 6. AS 16.05.255(b) is amended to read:

16 (b) The Board of Game shall adopt regulations in accordance with  
17 the Administrative Procedure Act (AS 44.62) for [PERMITTING] the  
18 taking of game for subsistence uses unless the board determines, in  
19 accordance with the Administrative Procedure Act, that adoption of the  
20 regulations will jeopardize or interfere with the maintenance of game  
21 resources on a sustained-yield basis. Whenever it is necessary to  
22 restrict the taking of game to assure the maintenance of game re-  
23 sources on a sustained-yield basis, or to assure the continuation of  
24 subsistence uses of such resources, subsistence use shall be the  
25 preferred [PRIORITY] use. If further restriction is necessar., the  
26 board shall establish restrictions and limitations on and priorities  
27 for these consumptive uses on the basis of the following criteria:

28 (1) customary and direct dependence upon the resource as the  
29 mainstay of one's livelihood;

1 (2) local residency; and

2 (3) availability of alternative resources.

3 \* Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

4 (d) Subsistence hunting authorized under this section is subject  
5 to reasonable regulation of seasons, bag limits, methods, and means.

6 (e) If the Board of Game determines that (1) a particular game  
7 species is not a customary and traditional source or not a significant  
8 source of subsistence for rural subsistence area residents and (2)  
9 subsistence is not the best use of that game species, the board may  
10 provide that the game species may not be taken under subsistence  
11 regulations.

12 (f) The Board of Game shall establish an appeal procedure for  
13 persons aggrieved by the adoption or repeal or enforcement of a sub-  
14 sistence hunting regulation. The aggrieved person must exhaust this  
15 administrative remedy before bringing a legal action challenging the  
16 regulation.

17 \* Sec. 8. AS 16.05.330 is amended to read:

18 Sec. 16.05.330. LICENSES AND TAGS REQUIRED. (a) Except as  
19 otherwise permitted in this chapter, a person may not engage in  
20 personal use fishing, subsistence fishing or sport fishing, including  
21 the taking of razor clams; in hunting, subsistence hunting, trapping,  
22 or fur dealing; in the farming of fish, fur, or game; or in taxidermy,  
23 without having the appropriate license or tag in actual possession.

24 (b) When obtaining the appropriate license or tag in (a) of this  
25 section, an applicant who asserts residency in the state or in a rural  
26 subsistence area shall provide the license vendor with the proof of  
27 residence that the department requires by regulation.

28 \* Sec. 9. AS 16.05.340(a) is amended by adding new paragraphs to read:

29 (18) personal use fishing license . . . . \$10

1 (19) subsistence fishing license . . . . \$10

2 (20) subsistence hunting license . . . . \$12

3 However, the fee for a license under this paragraph or (18) or (19) of  
4 this subsection is 25 cents for an applicant who is the head of a  
5 family or a dependent member of that family, or who is solely self-  
6 supporting, upon proof presented by the applicant that the applicant

7 (A) is obtaining or has obtained assistance during the  
8 preceding six months under any state or federal welfare program  
9 to aid the indigent, or

10 (B) has an annual family gross income of less than  
11 \$5,600 for the year preceding application.

12 \* Sec. 10. AS 16.05.940(23) is amended to read:

13 (23) "subsistence uses" means the customary and traditional  
14 uses [IN ALASKA] of wild, renewable resources by a resident of a rural  
15 subsistence area of the state for direct personal or family noncommer-  
16 cial consumption as food, shelter, fuel, clothing, tools, or transpor-  
17 tation, for the making and selling of handicraft articles out of  
18 nonedible by-products of fish and wildlife resources taken for direct  
19 personal or family noncommercial consumption, and for the customary  
20 trade, barter, or sharing for direct personal or family noncommercial  
21 consumption; for the purposes of this paragraph, "family" means all  
22 persons related by blood, marriage, or adoption, and any person living  
23 within the household on a permanent basis;

24 \* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

25 (28) "personal use fishing" means the taking of, or the  
26 attempt to take, finfish, shellfish, or other fishery resources in an  
27 area other than a rural subsistence area by a resident for direct  
28 personal or family consumption, not for sale or barter, by means of  
29 gill net, dip net, seine, pot, fishwheel, long line, or other similar

1 means defined by the Board of Fisheries; personal use fishing is  
2 limited to areas which, in the judgment of the board, can support both  
3 personal use fishing and sport fishing because of an abundance of  
4 fishery resources in the area;

5 (29) "resident of a rural subsistence area" means

6 (A) a person who, for 12 consecutive months, has main-  
7 tained in a single rural subsistence area a permanent place of  
8 abode and a voting residence;

9 (B) a member of the military service who has been  
10 stationed, or a dependent of the member who has been living, for  
11 the preceding 12 consecutive months in a single rural subsistence  
12 area is a resident of that area; or

13 (C) an alien who, for 12 consecutive months, has main-  
14 tained in a single rural subsistence area a permanent place of  
15 abode;

16 (30) "rural subsistence area" means a community or area of  
17 the state in which there are no practical alternative means for re-  
18 placing food supplies and other items that are gathered from fish and  
19 game by rural residents who are dependent on subsistence resources, as  
20 determined by the Board of Fisheries or the Board of Game after con-  
21 sidering the following criteria:

22 (A) lack of cash economy, sources of employment, or  
23 stores in the community;

24 (B) customary and traditional community dependence for  
25 sustenance on the consistent harvest and use, in a cost effective  
26 manner, of fish or game that is near or reasonably accessible  
27 from the community;

28 (C) remoteness of the community and lack of access by  
29 road, regularly scheduled barge, ferry, railroad or airplane

1 service; and

2 (D) community population of less than 500 persons;

3 (31) "subsistence hunting" means the taking of a game animal  
4 by a resident of a rural subsistence area for subsistence uses by  
5 means defined by the Board of Game.

6 \* Sec. 12. AS 16.05.257(h)(1) is repealed.  
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Original sponsor: Rules/Governor

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

7 (5) the importance of each fishery to the economy of the  
8 state;

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

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

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

17 (d) Regulations adopted under (a) of this section shall provide  
18 that, consistent with the provisions of AS 16.05.258, the taking of  
19 moose, deer, elk, and caribou by residents for personal or family  
20 consumption has preference over taking by nonresidents.

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1 sustained yield; and

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

5 (c) The boards shall adopt subsistence fishing and subsistence  
6 hunting regulations for each stock and population for which a harvest-  
7 able portion is determined to exist under (b)(1) of this section. If  
8 the harvestable portion is not sufficient to accommodate all consump-  
9 tive uses of the stock or population, but is sufficient to accommodate  
10 subsistence uses of the stock or population, then nonwasteful subsis-  
11 tence uses shall be accorded a preference over other consumptive uses,  
12 and the regulations shall provide a reasonable opportunity to satisfy  
13 the subsistence uses. If the harvestable portion is sufficient to  
14 accommodate the subsistence uses of the stock or population, then the  
15 boards may provide for other consumptive uses of the remainder of the  
16 harvestable portion. If it is necessary to restrict subsistence  
17 fishing or subsistence hunting in order to assure sustained yield or  
18 continue subsistence uses, then the preference shall be limited, and  
19 the boards shall distinguish among subsistence users, by applying the  
20 following criteria:

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

23 (2) local residency; and

24 (3) availability of alternative resources.

25 (d) The boards may adopt regulations consistent with this sec-  
26 tion that authorize taking for nonsubsistence uses a stock or popula-  
27 tion identified under (a) of this section.

28 (e) Fish stocks and game populations, including bison, or  
29 portions of fish stocks and game populations, not identified under (a)

1 of this section may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
3 able regulation of seasons, catch or bag limits, and methods and  
4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

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

7 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
8 the taking of fish or game in violation of a statute or regulation, it  
9 is not a defense that the taking was done for subsistence uses.

10 \* Sec. 8. AS 16.05.330 is amended by adding a new subsection to read:

11 (c) A person who takes fish or game for subsistence uses shall  
12 have in possession a current, valid subsistence license that was  
13 issued to the person, and the subsistence license of any other indi-  
14 vidual on whose behalf the person is taking fish or game by proxy.

15 \* Sec. 9. AS 16.05 is amended by adding a new section to read:

16 Sec. 16.05.333. SUBSISTENCE LICENSE. A subsistence license may  
17 be issued only to a resident domiciled in a rural area of the state.

18 \* Sec. 10. AS 16.05.340(a) is amended by adding a new paragraph to  
19 read:

20 (18) subsistence license.....\$22

21 However, the fee is 25 cents for an applicant who is the head of a  
22 family or a dependent member of that family, or who is solely self-  
23 supporting, upon proof presented by the applicant that the applicant

24 (A) is obtaining or has obtained assistance during  
25 the preceding six months under any state or federal welfare  
26 program to aid the indigent, or

27 (B) has an annual family gross income of less than  
28 \$5,600 for the year preceding application.

29 \* Sec. 11. AS 16.05.340(c) is amended to read:

1 (c) The commissioner of revenue may issue a duplicate license  
2 or a duplicate tag as a replacement for a license or tag issued under  
3 (a) of this section. A fee of \$2 shall be charged for each duplicate  
4 license or tag and the duplicate shall not be issued unless the com-  
5 missioner of revenue or a delegate is satisfied that the original has  
6 been lost or destroyed. This subsection does not apply to a 25-cent  
7 license issued under (a)(6) or (a)(18) of this section.

8 \* Sec. 12. AS 16.05.940(22) is amended to read:

9 (22) "subsistence fishing" means the taking of, fishing for,  
10 or possession of fish, shellfish, or other fisheries resources by a  
11 resident domiciled in a rural area of the state for subsistence uses  
12 with gill net, seine, fish wheel, long line, or other means defined by  
13 the Board of Fisheries;

14 \* Sec. 13. AS 16.05.940(23) is amended to read:

15 (23) "subsistence uses" means the noncommercial, customary  
16 and traditional uses [IN ALASKA] of wild, renewable resources by a  
17 resident domiciled in a rural area of the state for direct personal or  
18 family consumption as, food, shelter, fuel, clothing, tools, or trans-  
19 portation, for the making and selling of handicraft articles out of  
20 nonedible by-products of fish and wildlife resources taken for per-  
21 sonal or family consumption, and for the customary trade, barter, or  
22 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
23 this paragraph, "family" means [ALL] persons related by blood, mar-  
24 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
25 hold on a permanent basis;

26 \* Sec. 14. AS 16.05.940 is amended by adding new paragraphs to read:

27 (28) "domicile" means the true and permanent home of a  
28 person from which the person has no present intention of moving and to  
29 which the person intends to return whenever the person is away; domi-

1 cile may be proved by presenting evidence acceptable to the boards of  
2 fisheries and game;

3 (29) "fish stock" means a species, subspecies, geographic  
4 grouping or other category of fish manageable as a unit;

5 (30) "game population" means a group of game animals of a  
6 single species or subgroup manageable as a unit;

7 (31) "personal use fishing" means the taking, fishing for,  
8 or possession of finfish, shellfish, or other fishery resources, by  
9 Alaska residents for personal use and not for sale or barter, with  
10 gill or dip net, seine, fish wheel, long line, or other means defined  
11 by the Board of Fisheries;

12 (32) "rural area" means a municipality or area of the state  
13 in which the noncommercial, customary, and traditional use of fish or  
14 game for personal or family consumption is a principal characteristic  
15 of the economy of the municipality or area;

16 (33) "subsistence hunting" means the taking of, hunting for,  
17 or possession of game by a resident domiciled in a rural area of the  
18 state for subsistence uses by means defined by the Board of Game.

19 \* Sec. 15. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

20 \* Sec. 16. Sections 1 - 7 and 12 - 15 of this Act take effect June 1,  
21 1986.

22 \* Sec. 17. Sections 8 - 11 of this Act take effect January 1, 1987.

Hein  
2/26/86 ✓

REVISED TO SHOW 3/4/86  
CHANGES + 3/12/86 amendments

Additions added in red

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 ~~Section 1~~ AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 ~~Sec. 2~~ AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries. *Insert Vic's amendment #1 (fishing)*

18 ~~Sec. 3~~ AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 AS 16.05 is amended by adding new sections to read: *Insert Vic's Amendment #2 (game)*

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) ~~\_\_\_\_\_~~ The boards shall determine

28 (1) what portion, if any, of the stocks, and populations  
29 identified under (a) of this section can be harvested, and *consistent with sustained yield*

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 (c) The boards shall adopt subsistence fishing and subsistence  
 5 hunting regulations for each stock and population for which a harvest-  
 6 able portion is determined to exist under (b)(1) of this section. If  
 7 the harvestable portion is not sufficient to accommodate all consump-  
 8 tive uses of the stock or population, but is sufficient to accommodate  
 9 subsistence uses of the stock or population, then <sup>nonwasteful</sup> subsistence uses  
 10 shall be accorded a preference over other consumptive uses, and the  
 11 regulations shall provide a reasonable opportunity to satisfy the  
 12 subsistence uses. If the harvestable portion is sufficient to accom-  
 13 modate the subsistence uses of the stock or population, then the  
 14 boards may provide for other consumptive uses of the remainder of the  
 15 harvestable portion. If it is necessary to restrict subsistence  
 16 fishing or subsistence hunting in order to assure sustained yield or  
 17 continue subsistence uses, then the preference shall be limited, and  
 18 the boards shall distinguish among subsistence users, by applying the  
 19 following criteria:

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

22 (2) local residency; and

23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
 25 tion that authorize taking for nonsubsistence uses a stock or popula-  
 26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, <sup>including bison,</sup> or portions of fish  
 28 stocks and game populations, not identified under (a) of this section  
 29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to **reason-**  
 2 **able regulation** of seasons, catch or bag limits, and methods and  
 3 means. Takings and uses of resources authorized under this section  
 4 are subject to AS 16.05.831 and AS 16.30. *(winter waste provisions)*

5 [REDACTED] reference under this  
 6 [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED]

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
 11 and the Board of Game, acting jointly, **may** establish by regulation an  
 12 appeal procedure for persons aggrieved by the adoption or repeal of a  
 13 regulation.

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

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
 16 the taking of fish or game in violation of a statute or regulation, it  
 17 is not a **defense** that the **taking was done for subsistence** uses.

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

19 (c) The Board of Fisheries and the Board of Game **may** adopt  
 20 regulations providing for the issuance and expiration of subsistence  
 21 **permits** for areas, villages, communities, groups, or individuals as  
 22 needed for authorizing, regulating and monitoring the subsistence  
 23 harvest of fish and game. The boards **shall** adopt these regulations  
 24 when the subsistence preference requires a reduction in the harvest of  
 25 a fish stock or game population by nonsubsistence users.

26 **Sec. 7.** AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
 28 or possession of fish, shellfish, or other fisheries resources by a  
 29 resident domiciled in a rural area of the state for subsistence uses

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 ~~Sec. 8.~~ AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 ~~Sec. 9.~~ AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting ~~\_\_\_\_\_~~

20 ~~\_\_\_\_\_~~  
21 ~~\_\_\_\_\_~~ evidence acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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 Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

*No principal  
principal*

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 ~~Sec. 10~~ AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 This Act takes effect June 1, 1986.

11  
12  
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15  
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19 *long established + important*

Introduced: 5/10/85  
Referred: State Affairs, Resources  
Judiciary and Finance

1 IN THE SENATE  
2 SENATE BILL NO. 320  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to fishing and hunting."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
8 \* Section 1. AS 16.05.251(b) is amended to read:  
9 (b) The Board of Fisheries may [SHALL] adopt regulations in  
10 accordance with the Administrative Procedure Act (AS 44.62) providing  
11 for the issuance of and establishing fees for subsistence fishing  
12 licenses and permitting the taking of fish for subsistence uses unless  
13 the board determines, in accordance with the Administrative Procedure  
14 Act, that adoption of the regulations will jeopardize or interfere  
15 with the maintenance of fish stocks on a sustained-yield basis. When-  
16 ever it is necessary to restrict the taking of fish to assure the  
17 maintenance of fish stocks on a sustained-yield basis, or to assure  
18 the continuation of subsistence uses of such resources, subsistence  
19 use shall be the priority use. Only those subsistence uses of fish  
20 specified by statute or by regulations of the board are authorized.  
21 The board may, based on historical levels of subsistence use, deter-  
22 mine allocations and regulate seasons, catch limits, methods and means  
23 of taking, harvestable quotas, and other aspects of subsistence fish-  
24 ing. A catch limit established under this subsection applies to all  
25 fish taken for subsistence uses by a subsistence license holder and  
26 all dependents listed on the holder's license [IF FURTHER RESTRICTION  
27 IS NECESSARY, THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS  
28 ON AND PRIORITIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE  
29 FOLLOWING CRITERIA:

BY ABOOD

1 (1) CUSTOMARY AND DIRECT DEPENDENCE UPON THE RESOURCE AS  
2 THE MAINSTAY OF ONE'S LIVELIHOOD;  
3 (2) LOCAL RESIDENCY; AND  
4 (3) AVAILABILITY OF ALTERNATIVE RESOURCES].  
5 \* Sec. 2. AS 16.05.255(b) is amended to read:  
6 (b) The Board of Game may [SHALL] adopt regulations in accordance  
7 with the Administrative Procedure Act (AS 44.62) providing for the  
8 issuance of and establishing fees for subsistence hunting licenses and  
9 permitting the taking of game for subsistence uses unless the board  
10 determines, in accordance with the Administrative Procedure Act, that  
11 adoption of the regulations will jeopardize or interfere with the  
12 maintenance of game resources on a sustained-yield basis. Whenever it  
13 is necessary to restrict the taking of game to assure the maintenance  
14 of game resources on a sustained-yield basis, or to assure the contin-  
15 uation of subsistence uses of such resources, subsistence use shall be  
16 the priority use. Only those subsistence uses of game specified by  
17 statute or by regulations of the board are authorized. The board may,  
18 based on historical levels of subsistence use, determine allocations  
19 and regulate seasons, bag limits, methods and means of taking, har-  
20 vestable quotas, and other aspects of subsistence hunting. A bag  
21 limit established under this subsection applies to all game taken for  
22 subsistence uses by a subsistence license holder and all dependents  
23 listed on the holder's license [IF FURTHER RESTRICTION IS NECESSARY,  
24 THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORI-  
25 TIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITE-  
26 RIA:  
27 (1) CUSTOMARY AND DIRECT DEPENDENCE UPON THE RESOURCE AS THE  
28 MAINSTAY OF ONE'S LIVELIHOOD;  
29 (2) LOCAL RESIDENCY; AND

1 (3) AVAILABILITY OF ALTERNATIVE RESOURCES].

2 \* Sec. 3. AS 16.05.940(22) is amended to read:

3 (22) "subsistence fishing" means the taking of, fishing for,  
4 or possession of fish, shellfish, or other fisheries resources by a  
5 resident for subsistence uses with gill net, seine, fish wheel, long  
6 line, hook and line held in the hand, or hook and line with the line  
7 attached to a pole or rod that is held in the hand or closely attend-  
8 ed, or other means defined by the Board of Fisheries;

9 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

10 Sec. 16.05.258. SUBSISTENCE FISHING AND HUNTING LICENSES. (a)  
11 The Board of Fisheries and the Board of Game shall provide for the  
12 issuance of subsistence fishing licenses, subsistence hunting li-  
13 censes, and combination subsistence fishing and hunting licenses.

14 (b) An applicant for a subsistence license

15 (1) must be a resident 16 years of age or older;

16 (2) must claim as dependants all persons

17 (A) whose primary residence is in the applicant's  
18 household; or

19 (B) who consume as food, or during the period for  
20 which the subsistence license is to be issued are expected to  
21 consume as food, fish or game taken for subsistence uses by the  
22 applicant;

23 (3) may not be claimed as a dependent by another applicant;

24 (4) must prove to the satisfaction of the department that

25 (A) a minimum percentage of the diet of the applicant  
26 and that of all persons to be listed as dependents on the li-  
27 cense, as established by the department, consists of fish and  
28 game taken for subsistence uses by the applicant; and

29 (B) due to one or more of the following factors, the

1 applicant and dependents claimed by the applicant are unable to  
2 obtain alternative sustenance:

3 (i) remote nature of the applicant's permanent  
4 residence;

5 (ii) lack of adequate transportation;

6 (iii) physical or mental disabilities;

7 (iv) lack of a reasonable means of procurement;

8 and

9 (5) shall notify all persons claimed as dependents in the  
10 application that they are ineligible to apply for a subsistence li-  
11 cense.

12 (c) If further restriction of the taking of fish or game is  
13 necessary to assure the maintenance of a fish stock or a game popula-  
14 tion on a sustained-yield basis, the department may require that an  
15 applicant for a subsistence license may not have an annual gross  
16 income that exceeds the maximum income established jointly by the  
17 Board of Fisheries and the Board of Game under (d) of this section.

18 (d) The Board of Fisheries and the Board of Game jointly shall  
19 establish gross annual income limits for applicants for subsistence  
20 licenses. The boards shall set the lowest income limit for applicants  
21 whose primary residences are in a community or area with the lowest  
22 cost of living in the state. The department shall adjust the income  
23 limit for applicants from other communities or areas in accordance  
24 with the higher cost of living in those communities or areas.

25 (e) An application shall be submitted on a form provided by the  
26 department.

27 (f) A person who holds a subsistence fishing license or a com-  
28 bination subsistence license, or a person listed on the subsistence  
29 license as a dependent, may not, while the subsistence license is in

1 effect, hold a license or permit for sport or commercial fishing. A  
2 person who holds a subsistence hunting license or a combination sub-  
3 sistence license, or a person listed on the subsistence license as a  
4 dependent, may not, while the subsistence license is in effect, hold a  
5 license or permit for sport hunting or big game guiding.

6 (g) A person may not engage in subsistence fishing or hunting  
7 unless the person

8 (1) has an appropriate subsistence license properly issued  
9 and validated and in actual possession; or

10 (2) is listed on a subsistence license as a dependent of  
11 the license holder and is fishing or hunting for subsistence uses with  
12 the subsistence license holder.

13 (h) A person to whom a subsistence license has been issued may  
14 not alter, change, loan, or transfer the license. A person may not  
15 use a subsistence license that has been issued to another person.

16 Sec. 16.05.259. EXPIRATION, VALIDATION, AND REVOCATION OF SUB-  
17 SISTENCE LICENSES. (a) A subsistence fishing or subsistence hunting  
18 license expires on the fifth anniversary of the date of issuance.

19 (b) A subsistence fishing or subsistence hunting license must be  
20 validated and signed annually by a department employee or an agent  
21 designated by the commissioner. The employee or agent shall verify  
22 that the applicant is in compliance with the requirements of AS 16.-  
23 05.258 and has not been convicted of a violation of a fish or game  
24 statute or regulation since the issuance or last validation of the  
25 license.

26 (c) The department shall revoke the subsistence fishing and  
27 subsistence hunting licenses of a person who, during the period for  
28 which either subsistence license was issued to the person, has been  
29 convicted of a violation of

- 1 (1) a fish or game statute or regulation;
- 2 (2) AS 11.56.210 with regard to an application for a sub-  
3 sistence license; or
- 4 (3) AS 16.05.258(f) or (h).

5 (d) In addition to other penalties provided by law, upon a first  
6 conviction as described in (c) of this section or a first conviction  
7 of AS 16.05.258(g), the person is ineligible to apply for a subsis-  
8 tence license for a period of one year from the date of the convic-  
9 tion. Upon a second conviction, the person is ineligible to apply for  
10 a subsistence license for a period of three years from the date of the  
11 conviction. Upon a third conviction, the person is permanently ineli-  
12 gible to apply for a subsistence license, unless permitted after  
13 petitioning jointly the Board of Fisheries and the Board of Game.

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

16 Sec. 16.05.325. PENALTIES. (a) A person who violates AS 16.-  
17 05.258(f), (g), or (h) is guilty of a misdemeanor and upon conviction  
18 is punishable by a fine of not more than \$1,000, or by imprisonment  
19 for not more than six months, or by both.

20 (b) The proceeds of all fines shall be transmitted by the court  
21 to the proper state officer for deposit in the general fund of the  
22 state.

23 \* Sec. 6. AS 16.05 is amended by adding a new section to article 3 to  
24 read:

25 Sec. 16.05.435. DEFINITION. For purposes of AS 16.05.330 -  
26 16.05.430, "hunting" does not include hunting for subsistence uses.

Introduced: 3/13/85  
Referred: State Affairs, Resources,  
Judiciary and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

SENATE BILL NO. 231  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - FIRST SESSION  
A BILL

For an Act entitled: "An Act relating to the taking of fish and game for subsistence and personal use; and providing for an effective date."

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

\* Section 1. FINDINGS. The legislature finds that

(1) the taking of fish stocks and game populations for personal and family consumption and related uses is essential to the health, safety, and general welfare of Alaskans domiciled in rural communities or rural areas in which the taking of fish and game for such uses is a significant part of the economy of the community or area; and

(2) the taking of fish stocks and game populations for personal, sport, and commercial uses is also of economic and recreational importance to Alaskans who reside anywhere in the state.

\* Sec. 2. AS 16.05.251(a) is amended to read:

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.-62) for

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

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

(3) setting quotas, bag limits, harvest levels, and sex and

size limitations on the taking of fish;

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

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

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

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

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

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

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

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

(12) personal use fishing.

\* Sec. 3. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the customary and traditional uses by rural [IN] Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel,

1 clothing, tools, or transportation, for the making and selling of  
2 handicraft articles out of nonedible by-products of fish and wildlife  
3 resources taken for personal or family consumption, and for the cus-  
4 tomary trade, barter, or sharing for personal or family consumption;  
5 for the purposes of this paragraph, "family" means all persons relat-d  
6 by blood, marriage, or adoption, and any person living within the  
7 household on a permanent basis;

8 \* Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

9 (28) "personal use fishing" means the taking, fishing for,  
10 or possession of finfish, shellfish, or other fishery resources, by  
11 Alaska residents for personal use and not for sale or barter, with  
12 gill or dip net, seine, fish wheel, long line, or other similar means  
13 defined by the Board of Fisheries.

14 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

16

Hein  
5/11/85 ✓

Original sponsor: Rules/Governor

1  
2 IN THE HOUSE

BY THE RESOURCES COMMITTEE

3 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the taking of fish and game for  
8 subsistence and personal use; and providing for an  
9 effective date."

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

11 \* Section 1. FINDINGS. The legislature finds that

12 (1) nonresidents visiting Alaska take fish stocks and game  
13 populations primarily for commercial, trophy, and recreational purposes;  
14 Alaska residents, who take fish stocks and game populations for noncommer-  
15 cial purposes, use the stocks and populations primarily for food for per-  
16 sonal or family consumption;

17 (2) the taking of fish stocks and game populations by residents  
18 for personal or family consumption is important to the health, safety, and  
19 general well-being of all Alaska residents;

20 (3) the customary and traditional use of local fish stocks and  
21 game populations in rural areas of the state is a significant characteris-  
22 tic of the economy of many Alaskan communities and areas because it is cost  
23 effective and important to the health, safety, and general well-being of  
24 Alaskans;

25 (4) the taking of fish stocks and game populations for commer-  
26 cial, recreational, and other uses by both residents and nonresidents is  
27 important to the economy of the state and particularly to the economies of  
28 communities dependent upon commercial fishing; and

29 (5) commercial fishermen often use a portion of their catch for  
personal use.

1 \* Sec. 2. AS 16.05.251(a) is amended to read:

2 (a) The Board of Fisheries may adopt regulations it considers  
3 advisable in accordance with the Administrative Procedure Act (AS 44.-  
4 62) for

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

8 (2) establishing open and closed seasons and areas for the  
9 taking of fish;

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

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

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

16 (6) classifying as commercial fish, sport fish, personal  
17 use fish, subsistence fish, or predators or other categories essential  
18 for regulatory purposes;

19 (7) watershed and habitat improvement, and management,  
20 conservation, protection, use, disposal, propagation and stocking of  
21 fish;

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

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

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

1 (11) establishing the times and dates during which the  
2 issuance of fishing licenses, permits and registrations and the trans-  
3 fer of permits and registrations between registration areas is al-  
4 lowed; however, this paragraph does not apply to permits issued or  
5 transferred under AS 16.43;

6 (12) regulating selected stocks for catch-and-release sport  
7 fishing;

8 (13) regulating commercial, sport, personal use, and subsis-  
9 tence fishing.

10 \* Sec. 3. AS 16.05.251(b) is repealed and reenacted to read:

11 (b) Whenever it is necessary to restrict the taking of a fish  
12 stock to assure the maintenance of the stock on a sustained-yield  
13 basis, the taking of the stock by residents for personal and family  
14 consumption shall be a priority use of the harvestable surplus of the  
15 stock. To implement this priority, the Board of Fisheries shall  
16 establish a mandatory allocation that ensures all residents a reason-  
17 able opportunity for sport or personal use fishing in all established  
18 sport and personal use fisheries, and shall adopt regulations au-  
19 thorizing the taking in accordance with the Administrative Procedure  
20 Act (AS 44.62), unless the regulations will jeopardize or interfere  
21 with the maintenance of a fish stock on a sustained-yield basis or  
22 with the continuance of subsistence. The harvestable surplus of fish  
23 stocks in excess of this mandatory allocation shall be allocated among  
24 uses by the board as it finds appropriate. Takings authorized under  
25 this subsection are subject to reasonable regulation of seasons, catch  
26 limits, and methods and means.

27 \* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

28 (d) The Board of Fisheries shall adopt regulations in accordance  
29 with the Administrative Procedure Act (AS 44.62) permitting the taking

1 of fish stocks for subsistence uses unless the board determines that  
2 adoption of the regulations will jeopardize or interfere with the  
3 maintenance of a fish stock on a sustained-yield basis. Whenever it  
4 is necessary to restrict the taking of a fish stock to assure the  
5 maintenance of the stock on a sustained-yield basis, or to assure the  
6 continuation of subsistence uses of the stock, subsistence shall be  
7 the priority use. Takings authorized under this subsection are sub-  
8 ject to reasonable regulation of seasons, bag limits, and methods and  
9 means.

10 (e) If the harvestable surplus of a fish stock is not large  
11 enough to provide a reasonable opportunity for the taking of fish from  
12 the stock for subsistence uses, the board shall adopt regulations that  
13 establish restrictions and limitations on the taking of fish from the  
14 stock for subsistence uses on the basis of the following criteria:  
15 (1) customary and direct dependence upon the fish stock as the main-  
16 stay of one's livelihood; (2) local residency; and (3) availability of  
17 alternative resources. Subsistence fishing authorized under this  
18 subsection is subject to reasonable regulation of seasons, bag limits,  
19 and methods and means.

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

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

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

27 (2) establishing open and closed seasons and areas for the  
28 taking of game;

29 (3) establishing the means and methods employed in the

1 pursuit, capture and transport of game;

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

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

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

8 (7) watershed and habitat improvement, and management,  
9 conservation, protection, use, disposal, propagation and stocking of  
10 game;

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

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

17 (10) regulating sport and subsistence hunts.

18 \* Sec. 6. AS 16.05.255(b) is repealed and reenacted to read:

19 (b) The Board of Game shall establish a mandatory allocation  
20 that ensures all residents a reasonable opportunity for the taking of  
21 game for personal or family consumption, and shall adopt regulations  
22 authorizing the taking in accordance with the Administrative Procedure  
23 Act (AS 44.62), unless the regulations will jeopardize or interfere  
24 with the maintenance of a game population on a sustained-yield basis  
25 or with the continuance of subsistence. Takings authorized under this  
26 subsection are subject to reasonable regulation of seasons, bag lim-  
27 its, and methods and means.

28 \* Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

29 (d) The Board of Game shall adopt regulations in accordance with

1 the Administrative Procedure Act (AS 44.62) permitting the taking of  
2 game populations for subsistence uses unless the board determines that  
3 adoption of the regulations will jeopardize or interfere with the  
4 maintenance of a game population on a sustained-yield basis. Whenever  
5 it is necessary to restrict the taking of a game population to assure  
6 the maintenance of the population on a sustained-yield basis, or to  
7 assure the continuation of subsistence uses of the population, subsis-  
8 tence shall be the priority use. Takings authorized under this sub-  
9 section are subject to reasonable regulation of seasons, bag limits,  
10 and methods and means.

11 (e) If the harvestable surplus of a game population is not large  
12 enough to provide a reasonable opportunity for the taking of game from  
13 the population for subsistence uses, the board shall adopt regulations  
14 that establish restrictions and limitations on the taking of game from  
15 the population for subsistence uses on the basis of the following  
16 criteria: (1) customary and direct dependence upon the population as  
17 the mainstay of one's livelihood; (2) local residency; and (3) avail-  
18 ability of alternative resources. Subsistence hunting authorized  
19 under this subsection is subject to reasonable regulation of seasons,  
20 bag limits, and methods and means.

21 \* Sec. 8. AS 16.05.940(21) is amended to read:

22 (21) "sport fishing" means the taking of or attempting to  
23 take for personal use or for personal or family consumption, and not  
24 for sale or barter, any fresh water, marine, or anadromous fish by  
25 hook and line held in the hand, or by hook and line with the line  
26 attached to a pole or rod that [WHICH] is held in the hand or closely  
27 attended, or by other means defined by the Board of Fisheries;

28 \* Sec. 9. AS 16.05.940(23) is repealed and reenacted to read:

29 (23) "subsistence uses" means the customary, traditional and

1 cost-effective taking and use in a rural area, by an Alaska resident,  
2 of wild, renewable resources for direct personal or family consumption  
3 as food, shelter, fuel, clothing, tools, or transportation, for the  
4 making and selling of handicraft articles out of nonedible by-products  
5 of fish and wildlife resources taken for personal or family consump-  
6 tion, and for the noncommercial customary trade, barter, or sharing  
7 for personal or family consumption; wild and renewable resources taken  
8 for subsistence uses may be used only in the same area in which they  
9 are taken; in this paragraph,

10 (A) "family" means persons related by blood, marriage,  
11 or adoption, and persons living in the household on a permanent  
12 basis;

13 (B) "rural area" means a historic hunting or fishing  
14 area associated with a community or area in which the taking of  
15 fish stocks and game populations for personal and family consump-  
16 tion is a significant characteristic of the economy of the commu-  
17 nity or area;

18 \* Sec. 10. AS 16.05.940 is amended by adding a new paragraph to read:

19 (28) "personal use fishing" means the taking, or attempting  
20 to take by Alaska residents for personal or family consumption and not  
21 for sale or barter, finfish, shellfish, or other fishery resources  
22 with gill net, dip net, seine, pot, fish wheel, long line, or other  
23 similar means defined by the Board of Fisheries.

24 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).  
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Hein ✓  
3/4/86

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1           sustained yield; and

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

5                   (c) The boards shall adopt subsistence fishing and subsistence  
6           hunting regulations for each stock and population for which a harvest-  
7           able portion is determined to exist under (b)(1) of this section. If  
8           the harvestable portion is not sufficient to accommodate all consump-  
9           tive uses of the stock or population, but is sufficient to accommodate  
10          subsistence uses of the stock or population, then nonwasteful subsis-  
11          tence uses shall be accorded a preference over other consumptive uses,  
12          and the regulations shall provide a reasonable opportunity to satisfy  
13          the subsistence uses. If the harvestable portion is sufficient to  
14          accommodate the subsistence uses of the stock or population, then the  
15          boards may provide for other consumptive uses of the remainder of the  
16          harvestable portion. If it is necessary to restrict subsistence  
17          fishing or subsistence hunting in order to assure sustained yield or  
18          continue subsistence uses, then the preference shall be limited, and  
19          the boards shall distinguish among subsistence users, by applying the  
20          following criteria:

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

23                   (2) local residency; and

24                   (3) availability of alternative resources.

25                   (d) The boards may adopt regulations consistent with this sec-  
26          tion that authorize taking for nonsubsistence uses a stock or popula-  
27          tion identified under (a) of this section.

28                   (e) Fish stocks and game populations, or portions of fish  
29          stocks and game populations, not identified under (a) of this section

1 may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
3 able regulation of seasons, catch or bag limits, and methods and  
4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

6 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
7 and the Board of Game, acting jointly, may establish by regulation an  
8 appeal procedure for persons aggrieved by the adoption or repeal of a  
9 regulation.

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

11 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
12 the taking of fish or game in violation of a statute or regulation, it  
13 is not a defense that the taking was done for subsistence uses.

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

15 (c) The Board of Fisheries and the Board of Game may adopt  
16 regulations providing for the issuance and expiration of subsistence  
17 permits for areas, villages, communities, groups, or individuals as  
18 needed for authorizing, regulating and monitoring the subsistence  
19 harvest of fish and game. The boards shall adopt these regulations  
20 when the subsistence preference requires a reduction in the harvest of  
21 a fish stock or game population by nonsubsistence users.

22 \* Sec. 7. AS 16.05.940(22) is amended to read:

23 (22) "subsistence fishing" means the taking of, fishing for,  
24 or possession of fish, shellfish, or other fisheries resources by a  
25 resident domiciled in a rural area of the state for subsistence uses  
26 with gill net, seine, fish wheel, long line, or other means defined by  
27 the Board of Fisheries;

28 \* Sec. 8. AS 16.05.940(23) is amended to read:

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

1 and traditional uses [IN ALASKA] of wild, renewable resources by a  
2 resident domiciled in a rural area of the state for direct personal or  
3 family consumption as food, shelter, fuel, clothing, tools, or trans-  
4 portation, for the making and selling of handicraft articles out of  
5 nonedible by-products of fish and wildlife resources taken for per-  
6 sonal or family consumption, and for the customary trade, barter, or  
7 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
8 this paragraph, "family" means [ALL] persons related by blood, mar-  
9 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
10 hold on a permanent basis;

11 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

12 (28) "domicile" means the true and permanent home of a  
13 person from which the person has no present intention of moving and to  
14 which the person intends to return whenever the person is away; domi-  
15 cile may be proved by presenting evidence acceptable to the boards of  
16 fisheries and game;

17 (29) "fish stock" means a species, subspecies, geographic  
18 grouping or other category of fish manageable as a unit;

19 (30) "game population" means a group of game animals of a  
20 single species or subgroup manageable as a unit;

21 (31) "personal use fishing" means the taking, fishing for,  
22 or possession of finfish, shellfish, or other fishery resources, by  
23 Alaska residents for personal use and not for sale or barter, with  
24 gill or dip net, seine, fish wheel, long line, or other means defined  
25 by the Board of Fisheries;

26 (32) "rural area" means a community or area of the state in  
27 which the noncommercial, customary, and traditional use of fish or  
28 game for personal or family consumption is a significant characteris-  
29 tic of the economy of the community or area;

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(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 11. This Act takes effect June 1, 1986.

9/25/85

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fishing and hunting."

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

8 \* Section 1. FINDINGS AND INTENT. (a) The legislature finds that

9 (1) hunting and fishing are important to residents of many  
10 small, remote communities in the state as a principal means of obtaining  
11 food;

12 (2) the Congress, in enacting the Alaska National Interest Lands  
13 Conservation Act, intended to ensure, in their words, "the continuation of  
14 the opportunity for subsistence uses by rural residents of Alaska" who are  
15 dependent on subsistence uses and for whom "no practical alternative means  
16 are available to replace the food supplies and other items gathered from  
17 fish and wildlife";

18 (3) even in communities in which there are practical alternative  
19 means of obtaining food, many residents rely on fishing and hunting to  
20 obtain a substantial portion of their food;

21 (4) the opportunity to fish and hunt is vitally important to  
22 many Alaskans throughout the state, not only for obtaining food, but also  
23 for the experience itself.

24 (b) It is the intent of the legislature

25 (1) to establish as a principle of resource management by the  
26 Board of Fisheries and the Board of Game a preference for subsistence uses  
27 of fish and game in those areas "where no practical alternative means are  
28 available to replace the food supplies and other items gathered from fish  
29 and wildlife which supply rural residents dependent on subsistence uses";

1 and

2 (2) that the Board of Fisheries and the Board of Game have broad  
3 flexibility to manage the state's fish and game, and that they use this  
4 flexibility to ensure the sustained yield and best use of all fish stocks  
5 and game populations.

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

7 (a) The Board of Fisheries may adopt regulations it considers  
8 advisable in accordance with the Administrative Procedure Act  
9 (AS 44.62) for

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

13 (2) establishing open and closed seasons and areas for the  
14 taking of fish;

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

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

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

21 (6) classifying as commercial fish, sport fish, personal  
22 use fish, subsistence fish, or predators or other categories essential  
23 for regulatory purposes;

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

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

1 state;

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

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

6 (11) establishing the times and dates during which the  
7 issuance of fishing licenses, permits and registrations and the trans-  
8 fer of permits and registrations between registration areas is  
9 allowed; however, this paragraph does not apply to permits issued or  
10 transferred under AS 16.43;

11 (12) regulating catch-and-release sport fishing for selected  
12 fish stocks;

13 (13) regulating commercial, sport, personal use, and subsis-  
14 tence fishing.

15 \* Sec. 3. AS 16.05.251(b) is amended to read:

16 (b) The Board of Fisheries shall adopt regulations in accordance  
17 with the Administrative Procedure Act (AS 44.62) for [PERMITTING] the  
18 taking of fish for subsistence uses unless the board determines, in  
19 accordance with the Administrative Procedure Act, that adoption of the  
20 regulations will jeopardize or interfere with the maintenance of fish  
21 stocks on a sustained-yield basis. Whenever it is necessary to re-  
22 strict the taking of fish to assure the maintenance of fish stocks on  
23 a sustained-yield basis, or to assure the continuation of subsistence  
24 uses of such resources, subsistence use shall be the preferred [PRI-  
25 ORITY] use. If further restriction is necessary, the board shall  
26 establish restrictions and limitations on and priorities for these  
27 consumptive uses on the basis of the following criteria:

28 (1) customary and direct dependence upon the resource as  
29 the mainstay of one's livelihood;

1 (2) local residency; and

2 (3) availability of alternative resources.

3 \* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

4 (d) Subsistence fishing authorized under this section is subject  
5 to [reasonable] regulation of seasons, catch limits, methods, and means.

6 (e) If the Board of Fisheries determines that (1) a particular  
7 fish stock is not a customary and traditional source or not a  
8 significant source of subsistence for rural subsistence area residents  
9 and (2) subsistence is not the best use of that fish stock, the board  
10 may provide that the fish stock may not be taken under subsistence  
11 regulations.

12 (f) The Board of Fisheries shall establish an appeal procedure  
13 for persons aggrieved by the adoption or repeal or enforcement of a  
14 subsistence fishing regulation. The aggrieved person must exhaust  
15 this administrative remedy before bringing a legal action challenging  
16 the regulation.

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

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

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

24 (2) establishing open and closed seasons and areas for the  
25 taking of game;

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

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

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

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

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

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

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

14 (10) regulating sport hunts and subsistence hunts.

15 \* Sec. 6. AS 16.05.255(b) is amended to read:

16 (b) The Board of Game shall adopt regulations in accordance with  
17 the Administrative Procedure Act (AS 44.62) for [PERMITTING] the  
18 taking of game for subsistence uses unless the board determines, in  
19 accordance with the Administrative Procedure Act, that adoption of the  
20 regulations will jeopardize or interfere with the maintenance of game  
21 resources on a sustained-yield basis. Whenever it is necessary to  
22 restrict the taking of game to assure the maintenance of game re-  
23 sources on a sustained-yield basis, or to assure the continuation of  
24 subsistence uses of such resources, subsistence use shall be the  
25 preferred [PRIORITY] use. If further restriction is necessary, the  
26 board shall establish restrictions and limitations on and priorities  
27 for these consumptive uses on the basis of the following criteria:

28 (1) customary and direct dependence upon the resource as the  
29 mainstay of one's livelihood;

1 (2) local residency; and

2 (3) availability of alternative resources.

3 \* Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

4 (d) Subsistence hunting authorized under this section is subject  
5 to [reasonable] regulation of seasons, bag limits, methods, and means.

6 (e) If the Board of Game determines that (1) a particular game  
7 species is not a customary and traditional source or not a significant  
8 source of subsistence for rural subsistence area residents and (2)  
9 subsistence is not the best use of that game species, the board may  
10 provide that the game species may not be taken under subsistence  
11 regulations.

12 (f) The Board of Game shall establish an appeal procedure for  
13 persons aggrieved by the adoption or repeal or enforcement of a sub-  
14 sistence hunting regulation. The aggrieved person must exhaust this  
15 administrative remedy before bringing a legal action challenging the  
16 regulation.

17 \* Sec. 8. AS 16.05.330 is amended to read:

18 Sec. 16.05.330. LICENSES AND TAGS REQUIRED. (a) Except as  
19 otherwise permitted in this chapter, a person may not engage in  
20 personal use fishing, subsistence fishing or sport fishing, including  
21 the taking of razor clams; in hunting, subsistence hunting, trapping,  
22 or fur dealing; in the farming of fish, fur, or game; or in taxidermy,  
23 without having the appropriate license or tag in actual possession.

24 (b) When obtaining the appropriate license or tag in (a) of this  
25 section, an applicant who asserts residency in the state or in a rural  
26 subsistence area shall provide the license vendor with the proof of  
27 residence that the department requires by regulation.

28 \* Sec. 9. AS 16.05.340(a) is amended by adding new paragraphs to read:

29 (18) personal use fishing license . . . . §10

1 (19) subsistence fishing license . . . . \$10

2 (20) subsistence hunting license . . . . \$12

3 However, the fee for a license under this paragraph or (18) or (19) of  
4 this subsection is 25 cents for an applicant who is the head of a  
5 family or a dependent member of that family, or who is solely self-  
6 supporting, upon proof presented by the applicant that the applicant

7 (A) is obtaining or has obtained assistance during the  
8 preceding six months under any state or federal welfare program  
9 to aid the indigent, or

10 (B) has an annual family gross income of less than  
11 \$5,600 for the year preceding application.

12 \* Sec. 10. AS 16.05.940(23) is amended to read:

13 (23) "subsistence uses" means the customary and traditional  
14 uses [IN ALASKA] of wild, renewable resources by a resident of a rural  
15 subsistence area of the state for direct personal or family noncommer-  
16 cial consumption as food, shelter, fuel, clothing, tools, or transpor-  
17 tation, for the making and selling of handicraft articles out of  
18 nonedible by-products of fish and wildlife resources taken for direct  
19 personal or family noncommercial consumption, and for the customary  
20 trade, barter, or sharing for direct personal or family noncommercial  
21 consumption; for the purposes of this paragraph, "family" means all  
22 persons related by blood, marriage, or adoption, and any person living  
23 within the household on a permanent basis;

24 \* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

25 (28) "personal use fishing" means the taking of, or the  
26 attempt to take, finfish, shellfish, or other fishery resources in an  
27 area other than a rural subsistence area by a resident for direct  
28 personal or family consumption, not for sale or barter, by means of  
29 gill net, dip net, seine, pot, fishwheel, long line, or other similar

1 means defined by the Board of Fisheries; personal use fishing is  
2 limited to areas which, in the judgment of the board, can support both  
3 personal use fishing and sport fishing because of an abundance of  
4 fishery resources in the area;

5 (29) "resident of a rural subsistence area" means

6 ~~[(A)]~~ a person who, for 12 consecutive months, has main-  
7 tained in a single rural subsistence area a permanent place of  
8 abode and a voting residence;

9 ~~[(B) a member of the military service who has been~~  
10 ~~stationed, or a dependent of the member who has been living, for~~  
11 ~~the preceding 12 consecutive months in a single rural subsistence~~  
12 ~~area is a resident of that area; or~~

13 ~~(C) an alien who, for 12 consecutive months, has main-~~  
14 ~~tained in a single rural subsistence area a permanent place of~~  
15 ~~abode;]~~

16 (30) "rural subsistence area" means a community or area of  
17 the state in which there are no practical alternative means for re-  
18 placing food supplies and other items that are gathered from fish and  
19 game by rural residents who are dependent on subsistence resources, as  
20 determined by the Board of Fisheries or the Board of Game after con-  
21 sidering the following criteria:

22 (A) lack of cash economy, sources of employment, or  
23 stores in the community;

24 (B) customary and traditional community dependence for  
25 sustenance on the consistent harvest and use, in a cost effective  
26 manner, of fish or game that is near or reasonably accessible  
27 from the community;

28 (C) remoteness of the community and lack of access by  
29 road, regularly scheduled barge, ferry, railroad or airplane

1 service; and

2 (D) community population of less than 500 persons;

3 (31) "subsistence hunting" means the taking of a game animal  
4 by a resident of a rural subsistence area for subsistence uses by  
5 means defined by the Board of Game.

6 \* Sec. 12. AS 16.05.257(h)(1) is repealed.  
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SENATE BILL NO. \_\_\_\_\_

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to fishing and hunting."

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

## \* Sec. 1. FINDINGS AND INTENT.

(1) Sound management of fish and wildlife will be best achieved if the allocation of fish and wildlife between different user groups is done on a biological basis, rather than on the basis of land ownership.

(2) Maintaining healthy and natural populations of fish and wildlife is important to Alaska in that healthy and natural populations of fish and wildlife provide unique opportunities for a subsistence life-style, for trophy and other hunting and fishing, for commercial fishing and for wildlife viewing, that surpass such opportunities in the rest of the United States.

(3) In order to assure that these opportunities shall continue to be reasonably available it is necessary

(a) that there be an equitable balance between sport, commercial, and subsistence needs,

(b) that in times of resource shortage there be a reasonable preference for subsistence use of stocks of fish and populations of game that are important to subsistence uses.

(c) that the Board of Fisheries and the Board of Game have sufficient authority, flexibility and information necessary to manage uses of fish and wildlife to maintain sustained yield, to maintain healthy and natural populations, and to maintain meaningful opportunities for subsistence, sport, commercial and other consumptive and non-consumptive uses of fish and game.

\* Sec. 2. AS 16.05.094 is amended to read:

The division of subsistence hunting and fishing shall:

(1) comply and analyze existing data and data gathered in future studies, and conduct studies to gather information including data from subsistence users, the public, other divisions within the Department and other state or federal agencies, on all aspects of subsistence hunting and fishing in the lives of the residents of the state; provided that in doing such analysis and studies the division shall as clearly as possible set forth and identify --

(A) the species, stocks, and populations of fish and wildlife used for customary and traditional subsistence uses in specific areas of the State;

(B) the degree of significance that such species, stocks and populations have to customary and traditional subsistence uses and users in specific areas of the state;

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about Budget

(C) customary and traditional subsistence uses of fish and wildlife by species, stock and population of such fish and wildlife in specific areas of the state:

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(D) <sup>areas</sup> customarily and traditionally used for, and presently used for subsistence harvest by species, stock and population of fish and wildlife and by population of subsistence users.

(E) areas, habitats, flyways, watersheds and the like, whether within Alaska or outside, that are utilized by fish and wildlife subject subsistence uses; provided that such areas, habitats, flyways, watersheds and the like shall be identified in cooperation with other divisions of the Department and other state or federal agencies having jurisdiction over fish and wildlife;

(F) the impacts and extent of impact, if any, that subsistence use of specific species, stocks, or populations have on the conservation of healthy and natural populations of such fish and wildlife, the sustained-yield of such species, stocks or populations, other subsistence, sport, or commercial users whether within or outside of Alaska; provided that such impacts shall be identified in cooperation with other divisions of the Department and other state or federal agencies having jurisdiction over fish and wildlife.

(2) seek to quantify in a timely fashion the amount, nutritional value, and extent of dependence on food acquired through subsistence hunting and fishing, by species, stock, or population of fish and wildlife and by population of customary and traditional subsistence users, and by subsistence use areas:

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

(4) assist the department, the Board of Fisheries, and the Board of Game in determining what uses of fish and game, as well as which users and what methods, should be termed customary and traditional subsistence uses, users, and methods:

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

(6) make recommendations to the Board of Game and the Board of Fisheries regarding adoption, amendment and repeal of regulations effecting subsistence hunting and fishing; provided that such recommendations shall be made after prior consultation with other divisions of the department, or when appropriate with other state or federal agencies having jurisdiction over fish and wildlife; and

provided further that such recommendations must be approved by the Commissioner of the department:

(7) participate with other divisions of the department and with other departments of state and federal government in the preparation of statewide, [AND] regional or area management plans affecting fish, wildlife and their habitats so that those plans recognize [REORGANIZE] and incorporate the needs of subsistence users of fish and game.

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

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

(1) setting apart and managing <sup>designating</sup> fish reserve areas, refuges and sanctuaries in the water of the state over which it has jurisdiction, subject to approval of the legislature;

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

(3) setting quotas, bag limits, harvest levels, escapements, and sex and size limitations pertaining to [on] the taking of fish in Alaska waters or bound for Alaska waters; <sup>for management</sup>

(4) establishing the means and methods, such as appropriate gear, tackle, vessels and other such items, employed in the pursuit, capture, and transport of fish;

(5) establishing marking and identification requirements used in pursuit, capture, possession, tagging and transport of fish;

(6) classifying as commercial fish, sport fish, personal use fish, subsistence fish, [indigenous native] fish, exotic fish, [transplanted non-native] fish, hatchery fish, or predators or other categories essential for regulatory purposes, and as necessary, prohibiting or authorizing the live capture, possession, transport or release of native, non-native or exotic fish or their eggs;

(7) watershed and habitat protection, maintenance and improvement; and management, conservation, protection, use, disposal, propagation and stocking of fish; *provided that*

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

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

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

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

(12) designating and regulating special fishing areas, including but not limited to personal use areas, trophy management areas, catch-and-release areas, children's fishing areas, and the like, and designating species in such areas appropriate for such special management;

(13) establishing a procedure for administrative appeal of decisions by the Board; and

(14) otherwise regulating commercial, sport, subsistence, and personal use fishing as necessary for the conservation, development and utilization of fisheries.

\* Sec. 4. AS 16.05.251(b) is amended to read:

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) for [PERMITTING] the taking of fish for subsistence uses unless the board

determines, in accordance with the Administrative Procedure Act, that adoption of such regulations could [WILL] jeopardize or interfere with the maintenance of fish stocks so as to be inconsistent with sound management principles, the conservation of healthy and natural populations of fish, or [ON] a sustained-yield basis. Except as otherwise provided in this Act or in other state or federal laws, the taking of fish [~~on state-owned~~ <sup>all</sup> public lands or waters] for nonwasteful customary and traditional subsistence uses shall be accorded preference over (~~the~~ <sup>other</sup> ~~consumptive taking and uses of fish~~ <sup>for</sup> other purposes); provided that such preference shall not be construed as a preference over non-consumptive taking and uses of fish such as catch-and-release fisheries where the fish population or stock is not substantially related to customary and traditional subsistence need or where the taking, capture, tagging or transport of fish is done for biological or management purposes. § Whenever it is necessary to restrict the taking of [~~populations of~~ <sup>stocks</sup>] fish <sup>✓</sup> on such lands or waters for subsistence uses in order to protect the continued viability of such <sup>stocks</sup> ~~populations~~ as healthy and natural <sup>stocks</sup> ~~populations~~, or to assure sound management or to assure the maintenance of fish stocks on a sustained-yield basis, or to continue such uses [ASSURE THE CONTINUATION OF SUBSISTENCE USES OF SUCH RESOURCES], such preference

*work*

shall be implemented through appropriate limitations based on the application of the following criteria: [SUBSISTENCE USE SHALL BE THE PRIORITY USE. IF FURTHER RESTRICTION IS NECESSARY, THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORITIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITERIA:]

(1) customary and direct dependence upon the populations [RESOURCE] as the mainstay of [ONE'S] livelihood;

(2) local residency; and

(3) the availability of alternative resources.

\* Sec. 5. AS 16.05.251 is amended by adding new subsections to read:

(d) Subsistence fishing authorized under this section is subject to [reasonable] regulation of seasons, catch limits, methods, and means.

(e) If the Board of Fisheries determines that (1) a particular fish stock is not a customary and traditional subsistence resource or not a significant source of subsistence use for rural subsistence area residents and (2) subsistence is not the best use of that fish stock, the board may provide that the fish stock may not be taken under subsistence regulations, but may be taken under other regulations if appropriate; and provided further that the board may shift subsistence use of a fish stock to another stock only if there is a prior or

contemporaneous stock of the same <sup>species</sup> or different species that is suitable and available.

(f) The Board of Fisheries shall establish an appeal procedure for persons aggrieved by the adoption or repeal of a regulation of the board. The aggrieved person must exhaust this administrative remedy before bringing a legal action challenging the regulation.

\* Sec. 6. AS 16.05.295(a) is amended to read:

(a) The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.02) for:

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

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

(3) establishing the means, [AND] methods, marking and identification requirements employed in the pursuit, capture, possession, tagging and transport of game;

(4) setting quotas, bag limits, harvest levels, and sex, age, and size limitations and game population goals pertaining to the taking of game;

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

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

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

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

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

10. regulating sport hunts and subsistence hunts as necessary for the conservation, development and utilization of game and non-game species.

• Sec. 7. AS 16.05.255(b) is amended to read:

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.02) for [PERMITTING] the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of

such regulations could (WILL) jeopardize or interfere with the maintenance of game populations so as to be inconsistent with sound management principles, the conservation of healthy and natural populations of game, or (W) a sustained-yield basis. Except as otherwise provided in this Act or in other state or federal laws, the taking of game on state or federal public lands or waters for nonwasteful customary and traditional subsistence uses shall be accorded preference over the consumptive taking and uses of game for other purposes provided that such preference shall not be construed as a preference over either non-consumptive uses of game in areas such as national parks that are closed to all or substantially hunting, or over non-consumptive taking of game such as the taking, capture, tagging or transport of game when done for biological or management purposes. Whenever it is necessary to restrict the taking of populations of game on such lands or waters for subsistence uses in order to protect the established viability of such populations as healthy and natural populations, or to assure sound management or to assure the maintenance of game resources on a sustained-yield basis, or to ~~maintain such uses~~ (ASSURE THE CONTINUATION OF SUBSISTENCE USES OF SUCH RESOURCES). such preference shall be implemented through appropriate limitations based on the application of the following

criteria: (SUBSISTENCE USE SHALL BE THE PRIORITY USE. IF FURTHER RESTRICTION IS NECESSARY, THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORITIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITERIA:)

(1) customary and direct dependence upon the population (RESOURCE) as the mainstay of (GAME'S) livelihood;

(2) local residence; and

(3) the availability of alternative resources.

• Sec. 9. AS 16.45.255 is amended to add a new subsection to read:

(d) Subsistence hunting authorized under this section is subject to [reasonable] regulation of seasons, bag limits, methods, and means.

(e) If the Board of Game determines that (1) a particular game species is not a customary and traditional subsistence resource or not a significant source of subsistence use for rural subsistence area residents and (2) subsistence is not the best use of that game population, the board may provide that the game population may not be taken under subsistence regulations but may be taken under other regulations if appropriate and provided further that the board may shift subsistence use of a game population if there is a suitable and available alternative population of the game or different species.

(f) The Board of Game shall establish an appeal procedure for persons aggrieved by the adoption or repeal or enforcement of a subsistence hunting regulation of the board. The aggrieved person must exhaust this administrative remedy before bringing a legal action challenging the regulation.

• Sec. 9. AS 16.05.257(h)(1) is amended to read:

(1) "subsistence hunting" means the taking, hunting for, or possession of game animals by a rural Alaska resident qualified for nonwasteful, customary, and traditional subsistence uses by method and means defined by the Board of Game:

• Sec. 10. AS 16.05.257(h)(2) is amended to read:

(2) "subsistence hunting area" for purposes of this section means an area in which only subsistence hunting of the affected species is permitted and which shall be (15) managed to restore, if possible, the population of such affected species so that it can sustain use by subsistence, sport, commercial and non-consumptive users (FOR MAXIMUM FOOD POTENTIAL).

*up on change to clarify*

• Sec. 11. AS 16.05 is amended by adding the following section:

Sec. 16.05.258. Method of Determining Customary and Traditional Subsistence Use and Allocating Fish and Game. (a) In joint session, the Board of Fisheries and the Board of Game shall seek to:

(1) identify and quantify the amount of customary and traditional subsistence uses of fish and game that is necessary to provide a reasonable opportunity for rural residents engaged in a subsistence way of life to do so; provided that such determinations shall be based at least upon the research, analysis, comments and recommendations of the subsistence division of the department that are reviewed and concurred in by the other divisions of the department.

(2) identify and designate customary and traditional subsistence use zones utilized by such rural residents;

(3) identify fish stocks and game populations that customarily and traditionally have been important subsistence stocks and populations utilized by such rural residents for subsistence use;

(b) The Board of Fisheries or the Board of Game will assess the biological status of respective fish stocks and game populations that are important subsistence stocks and populations within the use zones and determine whether a surplus may be harvested during a regulatory year consistent with the utilization, development and conservation of such stocks and populations on the sustained yield principle, consistent with the conservation of healthy and natural populations of the resource, and consistent with the public interest;

(c) After identifying subsistence uses of a fish stock or game population that is important to customary and traditional subsistence use and after determining the amount of harvestable surplus, the appropriate board will determine the amount of harvestable surplus of such stock or population required to provide a reasonable opportunity to engage in customary and traditional subsistence uses, and will adopt regulations which authorize the taking of such stock or population for subsistence uses; provided that such regulations may be the same as, different from or in addition to regulations governing other consumptive uses of the stock or population.

(d) Each board will, in its discretion, adopt regulations pursuant to AS 16.05 which authorize the taking, for non-subsistence uses, of any stock or population identified as important for subsistence use, to the extent that the non-subsistence uses do not jeopardize or interfere with the conservation utilization and development of fish and game resources on a sustained yield basis or the conservation of natural and healthy populations, or with the opportunity for taking these resources for customary and traditional subsistence uses as provided by the section.

(e) In joint session the boards shall adopt regulations establishing criteria for defining "customary and traditional

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subsistence use. Such regulations may include, but need not be limited to, the following previously adopted criteria, which shall be in effect until such time as the boards re-adopt, supplement or amend the following criteria:

(1) a long-term, consistent pattern of use, excluding interruption by circumstances beyond the user's control such as regulatory prohibitions;

(2) a use pattern recurring in specific seasons of each year;

(3) a use pattern consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, and conditioned by local circumstances;

(4) the consistent harvest and use of fish or game which is near, or reasonably accessible from, the user's residence;

(5) the means of handling, preparing, preserving, and storing fish or game which has been traditionally used by past generations, but not excluding recent technological advances where appropriate;

(6) a use pattern which includes the handing down of knowledge of fishing or hunting skills, values and lore from generation to generation;

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(7) a use pattern in which the hunting or fishing effort or the products of that effort are distributed or shared among others within a definable community of persons, [including customary trade, barter, sharing and gift-giving; [customary trade [may include limited exchanges for cash, but] does not include significant commercial enterprises;] a community may include specific villages or towns, with a historical preponderance of subsistence users, and encompasses individuals, families, or groups who in fact meet the criteria described in this subsection; and

(8) a use pattern which includes reliance for subsistence purposes upon a wide diversity of the fish and game resources of an area, and in which that pattern of subsistence uses provides substantial economic, cultural, social, and nutritional elements of the subsistence user's life.

*Amendments*

\* Sec. 12. AS 16.05.330 is amended by adding the following subsection:

(c)(1) The Board of Fisheries and the Board of Game may adopt regulations, in accordance with the Administration Procedure Act (AS 44.62), providing for the issuance and any fees for subsistence fishing licenses, subsistence hunting licenses, and combination subsistence fishing and hunting licenses as necessary for authorizing,

regulating and monitoring subsistence harvest of fish and game. This authority shall be implemented when significant competition for fish stocks and game populations, resource shortage, or other management or biological considerations make such a program of licensing a useful tool of fish and game management. This authority shall not be construed as automatically requiring such a licensing program in any particular area of the state or upon any particular stock of fish or game population unless circumstances of significant competition, shortage, or other management or biological considerations exist which warrant such a program. For purposes of this subsection, "significant competition" occurs whenever the preference for subsistence uses requires a reduction in the harvest of a fish stock or game population by non-subsistence users.

(2) In determining an appropriate method of licensing each board, in its discretion, may adopt subsistence licensing programs that license individuals, identifiable groups of individuals, residents of a community or village, or residents of an area.

(3) With the assistance of the department, the boards shall seek to notify or otherwise make available to subsistence users -

(A) the terms of any applicable license issued;

(B) the types of licenses available;

(C) the fish stocks and game populations for which subsistence uses are authorized;

(D) subsistence use areas covered by such licenses;

(E) other regulations governing subsistence and non-subsistence uses, such as harvest limits, seasons, and methods and means restrictions.

Regardless of whether or not a licensing program is in effect pertaining to a particular area, fish stock, or game population, the boards shall seek to notify or otherwise make available to subsistence users the information described in this subsection. In notifying or making available such information the boards may utilize village and regional corporations formed under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and community, postal, media or other services appropriate for providing notice to subsistence users.

(4) The Department of Fish and Game shall administer any subsistence licensing program through its own staff and may also enter into agreements to utilize the services of native village or regional corporations, local officials, or others to assist in administering a subsistence licensing program; provided that no agreement for such assistance shall obligate the state to pay for such services unless paid for by either the receipts of fees for subsistence licensing

programs or by prior authorization by the legislature.

\* Sec. 13. AS 16.05.930(e) is amended to read:

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency order or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

\* Sec. 14. AS 16.05.940(22) is amended to read:

(22) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resource, by a rural Alaska resident qualified for nonwasteful, customary and traditional subsistence uses with gill net, seine, fish wheel, long line, or other methods and means defined by the Board of Fisheries:

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DRAFT

SENATE BILL NO. \_\_\_\_\_

IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - SECOND SESSION  
A BILL

For an Act entitled: "An Act relating to fishing and hunting."

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

\* SECTION 1. FINDINGS.

The legislature finds that

(1) The allocation of fish and game to subsistence users and non-subsistence users is a source of great division and controversy among Alaskans. The controversy must be resolved in a manner that is fair and generally perceived as fair to all Alaskan and non-Alaskan users of fish and game, regardless of whether those users are subsistence, commercial, sport, or non-consumptive users.

(2) Article III, Section 3 of the Alaska Constitution provides that wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use, and Article VIII, Section 4 provides that fish and wildlife shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

(3) All groups and classifications of users have equally legitimate claims upon the fish and game of Alaska, unless either the federal government under its authority or the Alaska legislature pursuant to Article VIII, Section 4 of the Alaska Constitution establishes a preference or preferences. Therefore, claims to greater

legitimacy by one class of users and claims of equal legitimacy among different users evoke political and social questions, and the question of whether there should be a preference under state law for subsistence use over other consumptive uses is a political and social question appropriate for the legislature to decide.

(4) The federal government, through the Alaska National Interest Lands Conservation Act, P. L. 96-487, has established on most federal public lands a preference for customary and traditional subsistence uses of fish and wildlife by rural residents of Alaska. The Alaska National Interest Lands Conservation Act also provides that the State may implement this preference if the State adopts laws of "general applicability" which are consistent with, and which provide for the definition of subsistence uses, the preference for subsistence uses, and the public participation in regulating subsistence uses, as found in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act. If the State does not adopt such laws of general applicability, consistent with the definition, preference and participation, then the federal government is obligated by the Alaska National Interest Lands Conservation Act to implement the subsistence definition, preference and participation concerning fish and wildlife management on federal public lands in Alaska.

(5) Alaska is approximately three hundred seventy-five million acres. Federal public lands presently comprise approximately three hundred million acres and when state and Native land selections have been fully conveyed, federal public lands will comprise approximately two hundred twenty-five million acres, which is approximately sixty percent of the State. Those federal lands include almost two hundred million acres that are open to sport hunting, sport fishing, commercial fishing, and commercial guiding of hunters, anglers, and non-consumptive users. Most but not all of these lands have been open to subsistence use under previous state management of subsistence uses.

(6) The federal government has notified the State that the decision of the Alaska Supreme Court in Madison v. Alaska Department of Fish and Game, No. 2911, which found that urban Alaskans may qualify for subsistence under state law, puts the State in a position of being inconsistent with the provisions of the Alaska National Interest Lands Conservation Act that provides a subsistence preference only to rural residents of Alaska. Further, the federal government has notified the State that the United State Department of the Interior will implement and enforce its obligations on federal public lands if the State does not amend, by June 1, 1986, its subsistence

laws so as to be consistent with the Alaska National Interest Lands Conservation Act.

(7) Fish and wildlife pay no attention to whether they are on state, federal or private lands. Furthermore, sport and subsistence users of fish and wildlife frequently utilize federal and state lands without recognizing boundaries that are unmarked, unsurveyed, unlocatable and frequently changing because of conveyances to the state of state land selections under the Alaska Statehood Act. Therefore, to subject transient fish and wildlife and transient users to different management regimes based on state, federal and private ownership would be inconsistent with sound resource management and would burden all users with the obligation to ascertain current ownership of the land intended to be hunted or fished and would create unknown but potentially substantial enforcement problems.

(8) Because of the transient character of fish and wildlife and the users of them, because of the diverse pattern of land ownership, because of the need for consistent management of fish and wildlife populations across different land ownerships, and because the need to provide fairly for subsistence, sport and commercial harvest of fish and wildlife, it is in the State's best interest to manage fish and wildlife on state, federal and private lands in a manner that is

consistent with sound resource management regardless of ownership of the land. This can only be accomplished by having the state in a position to exercise its authority regardless of land ownership, and this in turn can only be accomplished by amending the state subsistence laws so that they are consistent with sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act.

(9) Because the State has implemented a subsistence preference since 1980 that until the Madison case had been consistent with the Alaska National Interest Lands Conservation Act, the State has had an excellent opportunity to identify many of problems that have arisen with respect to the subsistence preference. Accordingly, the Madison decision, by providing an opportunity to amend the state subsistence law, also provides an opportunity to enact other amendments that will more fairly balance subsistence, sport, and commercial needs and will more adequately develop, utilized and conserve the state's fish and wildlife. If a greater sense of fairness, equal treatment and appropriate management can be achieved, then the public controversy that has surrounded subsistence may subside.

\* Section 2. POLICY AND INTENT.

The Alaska Legislature declares that it is the policy and intent of the State and the intent of the Legislature to:

*Many argue that since the state (pre-madison) did not touch it, no one since that time has touched it. Every time it comes up, the state had not complied with ANILCA.*

(1) seek an equitable balance between sport, commercial, and subsistence needs.

*(not an objective rule)*

(2) provide a preference for subsistence needs subject to reasonable regulation, including licensing, stocks of fish and wildlife to which the preference may apply, and for identification of areas of the state as areas in which the preference might apply.

(3) provide the Boards of Fisheries and the Board of Game with guidance for identification of appropriate subsistence targets.

(4) recognize that hunting and fishing is economically and culturally important to many Alaskans in rural and urban settings, and to recognize that customary and traditional hunting and fishing in many parts of rural Alaska is an important aspect of rural Alaskan culture, and frequently of Native culture.

*True but the will have important some provisions*

(5) recognize that most rural Alaskans live in a mixed cash and non-cash economy, and that in a historic sense, subsistence hunting and fishing have changed in recent decades such that the success of hunting, fishing and gathering by rural Alaskans today is rarely tied to the question of physical survival, and is now more appropriately tied to the question of survival of a cultural lifestyle dependent in large part on hunting, fishing and gathering.

(6) recognize that the continuation of a reasonable opportunity for customary and traditional subsistence uses by rural Alaskans needs to be protected for those who are customarily and traditionally dependent, in an economic or cultural sense, on the continuation of a meaningful opportunity to hunt and fish for sustenance, and

(7) protect sport, commercial and customary and traditional subsistence uses from competition by individuals not engaged in customary and traditional subsistence, regardless of whether those individuals are urban or rural residents.

(8) subject to a reasonable preference for customary and traditional subsistence protect to the maximum extent possible, the unique recreational opportunities for trophy and high quality fishing and hunting that are available in Alaska, and in many instances only in Alaska, and that are of international significance, and

(9) delegate to the Board of Fisheries and the Board of Game sufficient authority to manage fish and wildlife with flexibility, so that the boards shall ensure the sustained yield of all fish and wildlife stocks and populations for nonwasteful sport, commercial and subsistence purposes and so that the boards shall ensure the maintenance and conservation of healthy and natural

populations of fish and wildlife in order that sport purposes focused on high quality sport or trophy hunting and fishing can also continue to be meaningfully offered.

• Section 3. AS 16.05.094 is amended to read:

The division of subsistence hunting and fishing shall:

(1) compile and analyze existing data and data gathered in future studies, and conduct studies to gather information including data from subsistence users, the public, other divisions within the Department and other state or federal agencies, on all aspects of subsistence hunting and fishing in the lives of the residents of the state; provided that in doing such analysis and studies the division shall clearly establish the following:

(A) the species, stocks, and populations of fish and wildlife for customary and traditional subsistence uses in specific areas of the state;

(B) the degree of significance that such species, stocks and populations have to customary and traditional subsistence uses and uses in specific areas of the state;

(C) customary and traditional subsistence uses of fish and wildlife by species, stock and population of such fish and wildlife in specific areas of the state;

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Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 • Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 • Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 • Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 • Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 **[purposes]** in each rural area identified by the boards.

27 (b) **[Consistent with sustained yield]** The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested <sup>Consistent with sustained yield</sup> 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 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then <sup>nonwasteful</sup> subsistence uses  
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14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
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19 following criteria:

- 20 (1) customary and direct dependence on the fish stock or  
21 game population as the mainstay of livelihood;  
22 (2) local residency; and  
23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 Takings authorized under this section are subject to reason-  
2 gulation of seasons, catch or bag limits, and methods and  
3 means. Takings and uses of resources authorized under this section  
4 are subject to AS 16.05.831 and AS 16.30.

5 [(g) The implementation of a subsistence preference under this  
6 section does not affect the eligibility of active duty military per-  
7 sonnel, while stationed in the state for more than 30 days, to fish,  
8 hunt, or trap on military installations and facilities in the state  
9 under 10 U.S.C. 2671.]

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
11 and the Board of Game, acting jointly, may establish by regulation an  
12 appeal procedure for persons aggrieved by the adoption or repeal of a  
13 regulation.

- 14 • Sec. 5. AS 16.05 is amended by adding a new section to read:

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
16 the taking of fish or game in violation of a statute or regulation, it  
17 is not a defense that the taking was done for subsistence uses.

- 18 • Sec. 6. AS 16.05.330 is amended by adding a new subsection to read:

19 (c) The Board of Fisheries and the Board of Game may adopt  
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21 permits for areas, villages, communities, groups, or individuals as  
22 needed for authorizing, regulating and monitoring the subsistence  
23 harvest of fish and game. The boards shall adopt these regulations  
24 when the subsistence preference requires a reduction in the harvest of  
25 a fish stock or game population by nonsubsistence users.

- 26 • Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
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29 resident domiciled in a rural area of the state for subsistence uses

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7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
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9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
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15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
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18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence ~~of having had a permanent~~  
20 ~~home in a particular location for the preceding 12 consecutive months~~  
21 ~~or other evidence~~ acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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 Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional [taking and] use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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Hein ✓  
3/4/86  
            
          

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
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14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1           sustained yield; and

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

5           (c) The boards shall adopt subsistence fishing and subsistence  
6           hunting regulations for each stock and population for which a harvest-  
7           able portion is determined to exist under (b)(1) of this section. If  
8           the harvestable portion is not sufficient to accommodate all consump-  
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19          the boards shall distinguish among subsistence users, by applying the  
20          following criteria:

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

23                   (2) local residency; and

24                   (3) availability of alternative resources.

25          (d) The boards may adopt regulations consistent with this sec-  
26          tion that authorize taking for nonsubsistence uses a stock or popula-  
27          tion identified under (a) of this section.

28          (e) Fish stocks and game populations, or portions of fish  
29          stocks and game populations, not identified under (a) of this section

1 may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
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4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

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20 when the subsistence preference requires a reduction in the harvest of  
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25 resident domiciled in a rural area of the state for subsistence uses  
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29 (23) "subsistence uses" means the noncommercial, customary

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12 (28) "domicile" means the true and permanent home of a  
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14 which the person intends to return whenever the person is away; domi-  
15 cile may be proved by presenting evidence acceptable to the boards of  
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17 (29) "fish stock" means a species, subspecies, geographic  
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23 Alaska residents for personal use and not for sale or barter, with  
24 gill or dip net, seine, fish wheel, long line, or other means defined  
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26 (32) "rural area" means a community or area of the state in  
27 which the noncommercial, customary, and traditional use of fish or  
28 game for personal or family consumption is a significant characteris-  
29 tic of the economy of the community or area;

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\* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 11. This Act takes effect June 1, 1986.

Hein  
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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26 [purposes] in each rural area identified by the boards.

27 (b) [Consistent with sustained yield] The boards shall determine

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29 identified under (a) of this section can be harvested; and  
*Consistent with sustained yield*

1 (2) how much of the harvestable portion is needed to pro-  
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7 or possession of game by a resident domiciled in a rural area of the  
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9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

## Income and Subsistence: Relationships in Rural Alaska

The relationship of household income levels and subsistence in rural Alaska has been examined in several recent community studies in Western Alaska (Wolfe 1979; Wolfe 1983; Wolfe et al 1984; and Wolfe 1985). These studies have demonstrated that there are complex relationships between household income and subsistence participation, productivity, and need. The findings of these studies are summarized briefly below.

### Subsistence is Supported by Income and Employment

One finding is that households with the largest subsistence harvests in a community also have the largest monetary incomes and greatest participation in employment. Evidence of this is shown by the annual subsistence harvests and incomes of a sample of 88 households from six communities on the Yukon-Kuskokwim Delta:

Table 1. Subsistence Harvests by Major Income Source

<u>Household's Major Income Source</u>	<u>Mean HH Income</u>	<u>Mean HH Harvest</u>	<u>Mean Harvest Per HH Member</u>
Wage employment and commercial fishing	\$23,362	9,274 lbs	880 lbs
Wage employment only	19,025	4,608	1,047
Commercial fishing only	16,926	3,920	624
Transfer payments	6,468	2,741	435

Based on a sample of 88 households from Alakanuk, Eronak, Kotlik, Mountain Village, Sheldon Point, and Stebbins, for the period June 1980 through May 1981 (from Wolfe 1984).

This table shows that the households with jobs in commercial fishing and wage employment had the largest incomes (on average, about \$19,025 to \$23,362) and harvested the most subsistence fish and game (on average, about 860 to 1,047 lbs per person per year). The households with the lowest earned incomes received most of their money from government transfer payments (on average, about \$6,468) and harvested the smallest amount of subsistence foods (about 435 lbs). (For comparison, the average American in the continental United States consumed 285 lbs of meat, fish, and poultry in 1983, and a total of 1,371 lbs of all foods). These relationships between income and subsistence at the household level have been replicated in Wolfe (1979, 1983) and Wolfe et al (1984).

There are several reasons why households with the largest monetary earnings also tend to have the largest subsistence harvests in rural villages. First and foremost, the households with small monetary incomes tend to be composed of the elderly without children, single mothers with dependent children, or young couples just getting established. The elderly without children, and single mothers with dependent children, have incomplete labor forces to effectively participate in monetary employment or subsistence fishing and hunting. They earn low incomes, produce relatively smaller subsistence harvests, and often cannot support themselves. These households commonly

receive subsistence fish and game products from relatives and friends in the village to help support themselves.

Secondly, the households with the largest monetary incomes and largest subsistence harvests are often mature household units composed of middle aged parents with adolescent children. The households have a relatively large, mature work force which participates in subsistence activities, and in addition, participates in monetary employment (such as seasonal commercial fishing, capital construction projects, and so forth). Collectively, the earnings of the household members result in the relatively larger household incomes. The households also commonly own a complete set of equipment for hunting and fishing, such as snowmachines, skiffs, outboards, nets, smokehouses, fishracks, and so forth. For example:

Table 2. Household Equipment Holdings

<u>Income and Employment Category</u>	<u>Average Pieces of Subsistence Equipment per Household</u>
High Income Fishermen	15.8
Mixed Commercial Fishing and Wage Employment	10.3
Low Income Fishermen	6.3
Wage Employment Only	5.0
Transfer Payments	1.5

Based on a sample of 20 case households from Goodnews Bay, New Stuyahok, Quinhagak, and Togiak for the year 1983 (from Wolfe et al. 1984).

Thus, mature households have more household members and more equipment: this pool of labor and capital enables the household to be highly productive in both subsistence activities and commercial-wage employment. These mature households share their subsistence fish and game with the "poorer" households in the community which cannot support themselves.

It is clear to see why using an arbitrary household income level to define subsistence need makes no sense in this type of village economy. Households are really not independent units. Households are linked together in economic networks. The households with low monetary incomes and low subsistence harvests depend on the households with higher monetary incomes and higher subsistence harvests for support. Subsistence products flow between them. If fishing and hunting regulations prohibited the subsistence harvests of households with higher incomes, the regulations would be cutting off the community's major subsistence producers.

#### Households Combine Subsistence and Monetary Activities

A second related finding is that households typically combine subsistence and commercial-wage activities during a year in order to survive. Monetary income is needed to purchase the equipment used for subsistence fishing and hunting. Money is also needed for purchasing fuel, shelter, clothing, imported food items, and other basics. The most

successful households are those which are able to combine commercial-wage activities and subsistence fishing and hunting activities during the year. Wolfe et al (1984) found that seasonal commercial fishing was an activity especially compatible with subsistence fishing and hunting. It was a short-term, flexible source of income, using similar skills, equipment, and labor used in subsistence activities. Households also commonly combined subsistence and commercial-wage activities through complementary work roles: some household members worked for money, while others worked in subsistence fishing and hunting, pooling the results of their efforts. Another household strategy was for members to substitute for one another on a wage job to allow members to hunt and fish. Another practice was fishing and hunting during off-hours, weekends, leaves, and vacations. Village employers commonly allowed flexible hours and substitution policies to accommodate subsistence fishing and hunting activities by employees.

Under this kind of mixed subsistence-cash economy, it makes little sense to define subsistence in terms of wage employment criteria. Households whose members hold jobs also participate in subsistence fishing and hunting in the villages.

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1979 Food Production in a Western Eskimo Population. Ph.D. dissertation in anthropology, University of California, Los Angeles.

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1984 Commercial Fishing in the Hunting-Gathering Economy of a Yukon River Yup'ik Society. Etudes/Inuit/Studies, Supplementary Issue 8:159-183.

Wolfe, Robert J., Joseph J. Gross, Steven J. Langdon, John M. Wright, George K. Sherrod, Linda J. Ellanna, Valerie Sumida, and Peter J. Usher

1984 Subsistence-Based Economies in Coastal Communities of Southwest Alaska, Technical Paper No. 89, Division of Subsistence, Alaska Department of Fish and Game, Juneau.

COMMITTEE REPORT  
SENATE

FURTHER: JUDICIARY

2/5/86

Date 3/12/86

Mr. President

The Committee on RESOURCES considered CSHB 288(JUD) am  
taking of fish and game for subsistence and personal use; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 288 (JUD) am
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

Rick Halford Do Not Pass

Violates Art 1 Sec 1

AK Const.

Do not PASS

Violate the individuals

Right

Butcher hunting No Rec

Chairman

Do Pass

Chairman recommendation

Hein

A M E N D M E N T

Offered in the SENATE

By Halford

TO: SCS CSHB 288(Resources)

Page 4, line 10:

Delete "a" and "section";

after "new" insert "sections"

Page 4, after line 13, insert a new section to read:

"Sec. 16.05.262. LICENSE REQUIRED FOR SUBSISTENCE TAKINGS. A person who takes fish or game for subsistence uses shall have in possession a current, valid resident hunting, trapping, and sport fishing license that was issued under AS 16.05.340(a)(6) ~~(B)~~ (B) to the person or to another individual for whose benefit the person is taking the fish or game."

Hein  
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 purposes in each rural area identified by the boards.

27 (b) Consistent with sustained yield, the boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested; 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 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then subsistence uses  
10 shall be accorded a preference over other consumptive uses, and the  
11 regulations shall provide a reasonable opportunity to satisfy the  
12 subsistence uses. If the harvestable portion is sufficient to accom-  
13 modate the subsistence uses of the stock or population, then the  
14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:

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

22 (2) local residency; and

23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to reason-  
2 able regulation of seasons, catch or bag limits, and methods and  
3 means. Takings and uses of resources authorized under this section  
4 are subject to AS 16.05.831 and AS 16.30.

5 (g) The implementation of a subsistence preference under this  
6 section does not affect the eligibility of active duty military per-  
7 sonnel, while stationed in the state for more than 30 days, to fish,  
8 hunt, or trap on military installations and facilities in the state  
9 under 10 U.S.C. 2671.

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
11 and the Board of Game, acting jointly, may establish by regulation an  
12 appeal procedure for persons aggrieved by the adoption or repeal of a  
13 regulation.

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

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
16 the taking of fish or game in violation of a statute or regulation, it  
17 is not a defense that the taking was done for subsistence uses.

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

19 (c) The Board of Fisheries and the Board of Game may adopt  
20 regulations providing for the issuance and expiration of subsistence  
21 permits for areas, villages, communities, groups, or individuals as  
22 needed for authorizing, regulating and monitoring the subsistence  
23 harvest of fish and game. The boards shall adopt these regulations  
24 when the subsistence preference requires a reduction in the harvest of  
25 a fish stock or game population by nonsubsistence users.

26 \* Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
28 or possession of fish, snellfish, or other fisheries resources by a  
29 resident domiciled in a rural area of the state for subsistence uses

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 \* Sec. 8. AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence ~~of having had a permanent~~  
20 ~~home in a particular location for the preceding 12 consecutive months~~  
21 ~~or other evidence~~ acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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 Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional taking and use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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Hein  
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
 2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FOURTEENTH LEGISLATURE - SECOND SESSION  
 5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
 7 subsistence and personal use; and providing for an  
 8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal  
 12 use fish, subsistence fish, or predators or other categories essential  
 13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
 16 use fishing as needed for the conservation, development, and utiliza-  
 17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
 20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
 24 fish stocks and game populations, or portions of stocks and popu-  
 25 lations, that are customarily and traditionally used for subsistence  
 26 **[purposes]** in each rural area identified by the boards.

27 (b) **[Consistent with sustained yield,]** The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
 29 identified under (a) of this section can be harvested; and  
 Consistent with sustained yield

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 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then <sup>nonwasteful</sup> subsistence uses  
10 shall be accorded a preference over other consumptive uses, and the  
11 regulations shall provide a reasonable opportunity to satisfy the  
12 subsistence uses. If the harvestable portion is sufficient to accom-  
13 modate the subsistence uses of the stock or population, then the  
14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:

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

22 (2) local residency; and

23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to reason-  
2 able regulation of seasons, catch or bag limits, and methods and  
3 means. Takings and uses of resources authorized under this section  
4 are subject to AS 16.05.831 and AS 16.30.

5 [(g) The implementation of a subsistence preference under this  
6 section does not affect the eligibility of active duty military per-  
7 sonnel, while stationed in the state for more than 30 days, to fish,  
8 hunt, or trap on military installations and facilities in the state  
9 under 10 U.S.C. 2671.]

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
11 and the Board of Game, acting jointly, may establish by regulation an  
12 appeal procedure for persons aggrieved by the adoption or repeal of a  
13 regulation.

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

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
16 the taking of fish or game in violation of a statute or regulation, it  
17 is not a defense that the taking was done for subsistence uses.

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

19 (c) The Board of Fisheries and the Board of Game may adopt  
20 regulations providing for the issuance and expiration of subsistence  
21 permits for areas, villages, communities, groups, or individuals as  
22 needed for authorizing, regulating and monitoring the subsistence  
23 harvest of fish and game. The boards shall adopt these regulations  
24 when the subsistence preference requires a reduction in the harvest of  
25 a fish stock or game population by nonsubsistence users.

26 \* Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
28 or possession of fish, shellfish, or other fisheries resources by a  
29 resident domiciled in a rural area of the state for subsistence uses

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 \* Sec. 8. AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence [of having had a permanent  
20 home in a particular location for the preceding 12 consecutive months  
21 or other evidence] acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "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 Board of Fisheries:

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional ~~taking and~~ use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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Hein ✓  
3/4/86

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

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17 tion of fisheries.

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26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1 sustained yield, and

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

5 (c) The boards shall adopt subsistence fishing and subsistence  
6 hunting regulations for each stock and population for which a harvest-  
7 able portion is determined to exist under (b)(1) of this section. If  
8 the harvestable portion is not sufficient to accommodate all consump-  
9 tive uses of the stock or population, but is sufficient to accomodate  
10 subsistence uses of the stock or population, then nonwasteful sub-is-  
11 tence uses shall be accorded a preference over other consumptive uses,  
12 and the regulations shall provide a reasonable opportunity to satisfy  
13 the subsistence uses. If the harvestable portion is sufficient to  
14 accommodate the subsistence uses of the stock or population, then the  
15 boards may provide for other consumptive uses of the remainder of the  
16 harvestable portion. If it is necessary to restrict subsistence  
17 fishing or subsistence hunting in order to assure sustained yield or  
18 continue subsistence uses, then the preference shall be limited, and  
19 the boards shall distinguish among subsistence users, by applying the  
20 following criteria:

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

23 (2) local residency; and

24 (3) availability of alternative resources.

25 (d) The boards may adopt regulations consistent with this sec-  
26 tion that authorize taking for nonsubsistence uses a stock or popula-  
27 tion identified under (a) of this section.

28 (e) Fish stocks and game populations, or portions of fish  
29 stocks and game populations, not identified under (a) of this section

1 may be taken only under nonsubsistence regulations.

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4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

6 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
7 and the Board of Game, acting jointly, may establish by regulation an  
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9 regulation.

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11 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
12 the taking of fish or game in violation of a statute or regulation, it  
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14 \* Sec. 6. AS 16.05.330 is amended by adding a new subsection to read:

15 (c) The Board of Fisheries and the Board of Game may adopt  
16 regulations providing for the issuance and expiration of subsistence  
17 permits for areas, villages, communities, groups, or individuals as  
18 needed for authorizing, regulating and monitoring the subsistence  
19 harvest of fish and game. The boards shall adopt these regulations  
20 when the subsistence preference requires a reduction in the harvest of  
21 a fish stock or game population by nonsubsistence users.

22 \* Sec. 7. AS 16.05.940(22) is amended to read:

23 (22) "subsistence fishing" means the taking of, fishing for,  
24 or possession of fish, shellfish, or other fisheries resources by a  
25 resident domiciled in a rural area of the state for subsistence uses  
26 with gill net, seine, fish wheel, long line, or other means defined by  
27 the Board of Fisheries;

28 \* Sec. 8. AS 16.05.940(23) is amended to read:

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

1 and traditional uses [IN ALASKA] of wild, renewable resources by a  
2 resident domiciled in a rural area of the state for direct personal or  
3 family consumption as food, shelter, fuel, clothing, tools, or trans-  
4 portation, for the making and selling of handicraft articles out of  
5 nonedible by-products of fish and wildlife resources taken for per-  
6 sonal or family consumption, and for the customary trade, barter, or  
7 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
8 this paragraph, "family" means [ALL] persons related by blood, mar-  
9 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
10 hold on a permanent basis;

11 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

12 (28) "domicile" means the true and permanent home of a  
13 person from which the person has no present intention of moving and to  
14 which the person intends to return whenever the person is away; domi-  
15 cile may be proved by presenting evidence acceptable to the boards of  
16 fisheries and game;

17 (29) "fish stock" means a species, subspecies, geographic  
18 grouping or other category of fish manageable as a unit;

19 (30) "game population" means a group of game animals of a  
20 single species or subgroup manageable as a unit;

21 (31) "personal use fishing" means the taking, fishing for,  
22 or possession of finfish, shellfish, or other fishery resources, by  
23 Alaska residents for personal use and not for sale or barter, with  
24 gill or dip net, seine, fish wheel, long line, or other means defined  
25 by the Board of Fisheries;

26 (32) "rural area" means a community or area of the state in  
27 which the noncommercial, customary, and traditional use of fish or  
28 game for personal or family consumption is a significant characteris-  
29 tic of the economy of the community or area;

1                   (33) "subsistence hunting" means the taking of, hunting for,  
2 or possession of game by a resident domiciled in a rural area of the  
3 state for subsistence uses by means defined by the Board of Game.

4 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

5 \* Sec. 11. This Act takes effect June 1, 1986.  
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Introduced: 3/13/85  
Referred: State Affairs, Resources,  
Judiciary and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 231

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

8

9

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

10

\* Section 1. FINDINGS. The legislature finds that

11

(1) the taking of fish stocks and game populations for

12

personal and family consumption and related uses is essential to the

13

health, safety, and general welfare of Alaskans domiciled in rural

14

communities or rural areas in which the taking of fish and game for

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such uses is a significant part of the economy of the community or

16

area; and

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(2) the taking of fish stocks and game populations for

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personal, sport, and commercial uses is also of economic and recre-

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ational importance to Alaskans who reside anywhere in the state.

20

\* Sec. 2. AS 16.05.251(a) is amended to read:

21

(a) The Board of Fisheries may adopt regulations it considers

22

advisable in accordance with the Administrative Procedure Act (AS 44.-

23

62) for

24

(1) setting apart fish reserve areas, refuges and sanctu-

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aries in the waters of the state over which it has jurisdiction,

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subject to the approval of the legislature;

27

(2) establishing open and closed seasons and areas for the

28

taking of fish;

29

(3) setting quotas, bag limits, harvest levels, and sex and

1 size limitations on the taking of fish;

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

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

6 (6) classifying as commercial fish, sport fish, personal  
7 use fish, or predators or other categories essential for regulatory  
8 purposes;

9 (7) watershed and habitat improvement, and management,  
10 conservation, protection, use, disposal, propagation and stocking of  
11 fish;

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

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

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

20 (11) establishing the times and dates during which the  
21 issuance of fishing licenses, permits and registrations and the trans-  
22 fer of permits and registrations between registration areas is al-  
23 lowed; however, this paragraph does not apply to permits issued or  
24 transferred under AS 16.43;

25 (12) personal use fishing.

26 \* Sec. 3. AS 16.05.940(23) is amended to read:

27 (23) "subsistence uses" means the customary and traditional  
28 uses by rural [IN] Alaska residents of wild, renewable resources for  
29 direct personal or family consumption as food, shelter, fuel,

1 clothing, tools, or transportation, for the making and selling of  
2 handicraft articles out of nonedible by-products of fish and wildlife  
3 resources taken for personal or family consumption, and for the cus-  
4 tomary trade, barter, or sharing for personal or family consumption;  
5 for the purposes of this paragraph. "family" means all persons related  
6 by blood, marriage, or adoption, and any person living within the  
7 household on a permanent basis;

8 \* Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

9 (28) "personal use fishing" means the taking, fishing for,  
10 or possession of finfish, shellfish, or other fishery resources, by  
11 Alaska residents for personal use and not for sale or barter, with  
12 gill or dip net, seine, fish wheel, long line, or other similar means  
13 defined by the Board of Fisheries.

14 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

16

Offered: 4/19/85  
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR HOUSE BILL NO. 288 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. FINDINGS. The legislature finds that  
11 (1) the taking of fish stocks and game populations for personal  
12 and family consumption and related uses is essential to the health, safety,  
13 and general welfare of Alaskans domiciled in rural communities or rural  
14 areas in which the taking of fish and game for such uses is a significant  
15 part of the economy of the community or area; and  
16 (2) the taking of fish stocks and game populations for personal,  
17 sport, and commercial uses is also of economic and recreational importance  
18 to Alaskans who reside anywhere in the state.  
19 \* Sec. 2. AS 16.05.251(a) is amended to read:  
20 (a) The Board of Fisheries may adopt regulations it considers  
21 advisable in accordance with the Administrative Procedure Act (AS 44.-  
22 62) for  
23 (1) setting apart fish reserve areas, refuges and sanctu-  
24 aries in the waters of the state over which it has jurisdiction,  
25 subject to the approval of the legislature;  
26 (2) establishing open and closed seasons and areas for the  
27 taking of fish;  
28 (3) setting quotas, bag limits, harvest levels, and sex and  
29 size limitations on the taking of fish;

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

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

5 (6) classifying as commercial fish, sport fish, personal  
6 use fish, or predators or other categories essential for regulatory  
7 purposes;

8 (7) watershed and habitat improvement, and management,  
9 conservation, protection, use, disposal, propagation and stocking of  
10 fish;

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

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

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

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

24 (12) personal use fishing.

25 \* Sec. 3. AS 16.05.940(23) is amended to read:

26 (23) "subsistence uses" means the customary and traditional  
27 noncommercial uses [IN ALASKA] of wild, renewable resources by a  
28 resident domiciled in a rural area of the state for direct personal or  
29 family consumption as food, shelter, fuel, clothing, tools, or

1 transportation, for the making and selling of handicraft articles out  
2 of nonedible by-products of fish and wildlife resources taken for  
3 personal or family consumption, and for the customary trade, barter,  
4 or sharing for personal or family consumption; in [FOR THE PURPOSES  
5 OF] this paragraph [,]

6 (A) "family" means all persons related by blood,  
7 marriage, or adoption, and any person living within the household  
8 on a permanent basis;

9 (B) "rural area" means a community or area of the  
10 state in which the taking of fish or wildlife for personal or  
11 family consumption is a significant characteristic of the economy  
12 of the community or area;

13 \* Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

14 (28) "personal use fishing" means the taking, fishing for,  
15 or possession of finfish, shellfish, or other fishery resources, by  
16 Alaska residents for personal use and not for sale or barter, with  
17 gill or dip net, seine, fish wheel, long line, or other similar means  
18 defined by the Board of Fisheries.

19 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
20 10.070(c).

21

Offered: 2/5/86  
Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 16.05.251(a)(6) is amended to read:  
11 (6) classifying as commercial fish, sport fish, personal  
12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;  
14 \* Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:  
15 (12) designating and regulating special fishing areas,  
16 including personal use areas, trophy management areas, catch-and-  
17 release areas, and children's fishing areas, and designating stocks in  
18 those areas for which special management is appropriate;  
19 (13) regulating commercial, sport, subsistence, and personal  
20 use fishing as needed for the conservation, development, and utiliza-  
21 tion of fisheries.  
22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:  
23 (10) regulating sport hunts and subsistence hunts as needed  
24 for the conservation, development, and utilization of game and nongame  
25 species.  
26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:  
27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.  
28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, sound management, and the  
5 maintenance of healthy fish stocks and game populations, the boards  
6 shall determine

7 (1) whether there exists a harvestable surplus of the  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the surplus is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able surplus is determined to exist under (b)(1) of this section. If  
15 a surplus is not sufficient to accommodate all consumptive uses of the  
16 surplus, but is sufficient to accommodate subsistence uses of the  
17 surplus, then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the surplus.  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 (f) In making allocation decisions the boards may apportion  
8 subsistence use among species, stocks, and populations that are simi-  
9 lar and reasonably available.

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 (i) The boards, after consulting with the department, shall  
19 adopt regulations defining "maintenance of healthy populations of fish  
20 and game," "sound management principles," "sustained yield," and  
21 "harvestable surplus."

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 subsistence or personal use regulation.

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

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

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

9 (d) With the assistance of the department, the boards shall  
10 provide reasonable public notice of the following information to users  
11 of a group, community, village, or area subsistence permit:

12 (1) the terms of the permit;

13 (2) the fish stocks and game populations authorized to be  
14 taken under the permit;

15 (3) the subsistence use areas covered by the permit.

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601 - 1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) The commissioner shall administer subsistence permit pro-  
21 grams that may be established. The commissioner may appoint state  
22 employees or other persons to take applications and issue permits and  
23 tags. A person appointed by the commissioner may administer oaths for  
24 permit and tag applications. The commissioner or the appropriate  
25 board may require a report from persons using a permit concerning the  
26 time, manner, and place of taking fish and game, the kinds and quanti-  
27 ty taken, and other information helpful in administering the fish and  
28 game resources of the state. Except for state employees, a person  
29 appointed by the commissioner under this subsection is entitled to

1 compensation of \$50 per year or \$1 for each permit or tag issued,  
2 whichever is greater.

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game animals by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

Letter of Intent for CSHB 288 (am)  
an act relating to the taking of fish and game for subsistence and  
personal use  
by the House Resources Committee  
4/14/85

The purpose of this bill is to authorize the Alaska Board of Fisheries and the Alaska Board of Game to adopt regulations identifying "subsistence uses" of fish stocks and game populations as the boards did from May 30, 1982 until February 22, 1985.

Pursuant to this bill the boards will limit the identification of "subsistence uses" of fish stocks and game populations to the taking of such stocks and populations by Alaska residents who are domiciled in rural communities and rural areas in which the taking of fish stocks or game populations for personal and family consumption is a significant characteristic of the economy of the community or area, as determined by the boards.

This limitation of the definition of "subsistence uses" recognizes that Alaska is unique, and unlike any of the other forty-nine states, the economy of many rural communities and rural areas in Alaska is significantly dependent participation by the residents of these communities in the taking of fish stocks and game populations for personal and family consumption. Further, the Legislature finds that the general health and welfare of these citizens is significantly tied to their participation in these activities.

The boards will be authorized to adopt regulations for identifying customary and traditional uses by Alaska residents of those rural communities and rural areas. It is the intent of the Legislature to preserve the approach to implementing the state's subsistence law embodied in 5 AAC 99.010, (as adopted by the Joint Boards of Fisheries and Game on May 30, 1982), for identifying subsistence uses on a community or area basis.

The Legislature finds that implementing the subsistence law is consistent with the intent of the definition of subsistence hunting and fishing and personal use fishing contained in House Bill 288 when criteria such as those outlined below are used to identify customary and traditional uses of the resource:

- (1) a long-term, consistent pattern of use, excluding interruption by circumstances beyond the user's control such as regulatory prohibitions;
- (2) a use pattern recurring in specific seasons of each year;
- (3) a use pattern consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, and conditioned by local circumstances;
- (4) the consistent harvest and use of fish or game which is near, or reasonably accessible from, the user's residence;

Letter of Intent for CSHB 288 amended  
by the House Resources Committee (Continued)

(5) the means of handling, preparing, preserving, and storing fish or game which has been traditionally used by past generations, but not excluding recent technological advances where appropriate;

(6) a use pattern which includes the handing down of knowledge of fishing or hunting skills, values and lore from generation to generation;

(7) a use pattern in which the hunting or fishing effort or the products of that effort are distributed or shared among others within a definable community of persons, including customary trade, barter, sharing, and gift-giving; customary trade may include limited exchanges for cash, but does not include significant commercial enterprises; a community may include specific villages or towns, with a historical preponderance of subsistence users, and encompasses individuals, families, or groups who in fact meet the criteria described in this subsection; and

(8) a use pattern which includes reliance for subsistence purposes upon a wide diversity of the fish and game resources of an area, and which provides substantial economic, cultural, social, and nutritional elements of the subsistence user's life.

This legislation establishes that the commercial sale of fish and game taken for personal and family consumption is prohibited, but does not preclude the sale of handicraft articles made from the non-edible by products taken for such uses. Accordingly, the Legislature intends that barter, sharing and customary trade of fish or game taken for personal and family consumption be of a non-commercial nature. This restriction however, does not apply to the existing limited sale of animal furs by subsistence users of the resource.

The bill also establishes a statutory definition of "personal use fishing." Although sport, commercial and personal use fishing are not afforded a statutory priority over each other, the inclusion of a definition of "personal use" is to indicate that the intent of the Legislature is to delegate to the Alaska Board of Fisheries adequate regulatory authority to provide all persons engaged in sport, commercial, and personal use fishing a reasonable opportunity to participate in the harvest of Alaska's fish stocks.

LETTER OF INTENT -- HB 288

It is the intent of the Legislature that the needs criteria provided for in Section 16.05.262 be consistent with the customary and traditional language provided for in federal legislation and with customary and traditional uses of wildlife resources by those in need as evidenced by An Act to Prevent the Extermination of Fur-bearing Animals in Alaska, ch. 189, 16 Stat., 180 (1870); An Act for the Protection of Game in Alaska, ch. 1037, 32 Stat., 327 (1902); An Act for the Protection of Game in Alaska, ch. 162, 35 Stat., 102 (1908); An Act to Protect the Seal Fisheries of Alaska, ch. 183, 34 Stat., 326 (1910); An Act to Establish an Alaska Game Commission, ch. 75, 43 Stat., 744 (1925).

Letter of Intent:

This legislation establishes a statutory definition of "personal use fishing." The legislature recognizes that the personal use of fish and wildlife plays a valuable role in the lives of many Alaskans. Therefore, the Legislature intends that the Board of Fisheries shall provide fairly and adequately for these personal uses.

Sport, commercial and personal use fishing are not afforded a priority over each other. The Legislature intends to delegate to the Alaska Board of Fisheries adequate regulatory authority to provide Alaskans with a reasonable opportunity to participate in commercial, sport and personal use fishing.

In addressing the needs of commercial, sport and personal use fishing user groups in a particular area, the Board of Fisheries may make allocations from discrete stocks of fish. The board does not have to make allocations to each user group from each stock of fish. For example, the Board may decide it is in the public interest to allocate harvestable portions of the Kenai River king salmon runs to only sport and commercial fishermen, while meeting the needs of personal use fishermen on other Kenai Peninsula salmon stocks.

In making major allocation decisions among the commercial, sport and personal use fishing categories, the Legislature intends for the Board of Fisheries to consider the following factors for each of the fisheries involved: the historical importance, number of persons expected to participate, availability of alternative resources, importance to the local and state economy, and importance for providing Alaskans the opportunity to fish for personal consumption or recreation.