

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672
4222.5 SRES SUBSISTENCE BILL DRAFTS & LETTER OF INTENT (file 2)

180

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.
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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 *can't* (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

*Denney - says if Ross required
lot significant
to Hubbard - does not include*

*Russ
in testimony
rec'd*

MB wants needs
not uses

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. ^{needs MB}

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

when harvest is reduced

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

*would
on local level
requires
re:
Holland
Carr*

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^a new paragraphs^s 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^{ing} and subsistence hunt^{ing} 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 ^{what} ~~if a~~ portion, if any,

7 (1) ~~[whether there exists a harvestable surplus]~~ of the ^{can be harvested}
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the ^{harvestable portion} ~~[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 ^{portion} ~~[surplus]~~ is determined to exist under (b)(1) of this section. If
15 a ^{harvestable portion} ~~[surplus]~~ is not sufficient to accommodate all consumptive uses of the
16 ^{harvestable portion} ~~[surplus]~~, but is sufficient to accommodate subsistence uses of the
17 ^{harvestable portion} ~~[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 ^{harvestable portion} ~~[surplus]~~, and may pro-
20 vide opportunities ^{for} ~~[to satisfy]~~ other consumptive uses of the ^{harvestable portion} ~~[surplus]~~.
21 If it is necessary to restrict subsistence fishing or subsistence
22 hunting in order to assure ^{sustained yield} ~~[sound management]~~ or ^{continue} ~~[protect future]~~ subsis-
23 tence ^{uses} ~~[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
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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
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18 this paragraph, "family" means [ALL] persons related by blood, mar-
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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

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17 tion of fisheries.

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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
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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
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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
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10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries
 11 and the Board of Game, acting jointly, may establish by regulation an
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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

by the Board of Fisheries;

(32) "rural area" means a community or area of the state in which the noncommercial, customary, and traditional taking and use of fish or game for personal or family consumption is a significant 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. 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.

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).

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

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).
26
27
28
29

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 ^{Orders & Regulations} 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, ^{and AS 44.62.250} to issue emergency ^{orders and} 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).
20
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23
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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."

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

15

such uses is a significant part of the economy of the community or

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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,

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subject to the approval of the legislature;

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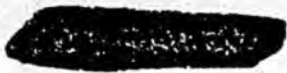
(2) establishing open and closed seasons and areas for the

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

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

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 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 Section 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 Section 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, ^{nonwasteful} 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, ^{including bison,} 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.

Sec 10
[Redacted]

9 AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 This Act takes effect June 1, 1986.

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19 *long established + important*

Introduced: 5/10/85
Referred: State Affairs, Resources
Judiciary and Finance

1 IN THE SENATE

SENATE BILL NO. 320

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

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

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(1) CUSTOMARY AND DIRECT DEPENDENCE UPON THE RESOURCE AS
THE MAINSTAY OF ONE'S LIVELIHOOD;
(2) LOCAL RESIDENCY; AND
(3) AVAILABILITY OF ALTERNATIVE RESOURCES].

* Sec. 2. AS 16.05.255(b) is amended to read:

(b) The Board of Game may [SHALL] adopt regulations in accordance
with the Administrative Procedure Act (AS 44.62) providing for the
issuance of and establishing fees for subsistence hunting licenses and
permitting the taking of game 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 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 contin-
uation of subsistence uses of such resources, subsistence use shall be
the priority use. Only those subsistence uses of game specified by
statute or by regulations of the board are authorized. The board may,
based on historical levels of subsistence use, determine allocations
and regulate seasons, bag limits, methods and means of taking, har-
vestable quotas, and other aspects of subsistence hunting. A bag
limit established under this subsection applies to all game taken for
subsistence uses by a subsistence license holder and all dependents
listed on the holder's license [IF FURTHER RESTRICTION IS NECESSARY,
THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORI-
TIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITE-
RIA:

(1) CUSTOMARY AND DIRECT DEPENDENCE UPON THE RESOURCE AS THE
MAINSTAY OF ONE'S LIVELIHOOD;
(2) LOCAL RESIDENCY; AND

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.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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."

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
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 (2) 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 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 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

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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;

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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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;