

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672
4222.6 RES SUBSISTENCE BILL DRAFTS & LETTER OF INTENT (file 2) / 87

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

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

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

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

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

14 (10) regulating sport hunts and subsistence hunts.

15 * Sec. 6. AS 16.05.255(b) is amended to read:

16 (b) The Board of Game shall adopt regulations in accordance with
17 the Administrative Procedure Act (AS 44.62) for [PERMITTING] the
18 taking of game for subsistence uses unless the board determines, in
19 accordance with the Administrative Procedure Act, that adoption of the
20 regulations will jeopardize or interfere with the maintenance of game
21 resources on a sustained-yield basis. Whenever it is necessary to
22 restrict the taking of game to assure the maintenance of game re-
23 sources on a sustained-yield basis, or to assure the continuation of
24 subsistence uses of such resources, subsistence use shall be the
25 preferred [PRIORITY] use. If further restriction is necessary, the
26 board shall establish restrictions and limitations on and priorities
27 for these consumptive uses on the basis of the following criteria:

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

1 (2) local residency; and

2 (3) availability of alternative resources.

3 * Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

4 (d) Subsistence hunting authorized under this section is subject
5 to [reasonable] regulation of seasons, bag limits, methods, and means.

6 (e) If the Board of Game determines that (1) a particular game
7 species is not a customary and traditional source or not a significant
8 source of subsistence for rural subsistence area residents and (2)
9 subsistence is not the best use of that game species, the board may
10 provide that the game species may not be taken under subsistence
11 regulations.

12 (f) The Board of Game shall establish an appeal procedure for
13 persons aggrieved by the adoption or repeal or enforcement of a sub-
14 sistence hunting regulation. The aggrieved person must exhaust this
15 administrative remedy before bringing a legal action challenging the
16 regulation.

17 * Sec. 8. AS 16.05.330 is amended to read:

18 Sec. 16.05.330. LICENSES AND TAGS REQUIRED. (a) Except as
19 otherwise permitted in this chapter, a person may not engage in
20 personal use fishing, subsistence fishing or sport fishing, including
21 the taking of razor clams; in hunting, subsistence hunting, trapping,
22 or fur dealing; in the farming of fish, fur, or game; or in taxidermy,
23 without having the appropriate license or tag in actual possession.

24 (b) When obtaining the appropriate license or tag in (a) of this
25 section, an applicant who asserts residency in the state or in a rural
26 subsistence area shall provide the license vendor with the proof of
27 residence that the department requires by regulation.

28 * Sec. 9. AS 16.05.340(a) is amended by adding new paragraphs to read:

29 (18) personal use fishing license §10

CORRECTION

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

1 (19) subsistence fishing license \$10

2 (20) subsistence hunting license \$12

3 However, the fee for a license under this paragraph or (18) or (19) of
4 this subsection is 25 cents for an applicant who is the head of a
5 family or a dependent member of that family, or who is solely self-
6 supporting, upon proof presented by the applicant that the applicant

7 (A) is obtaining or has obtained assistance during the
8 preceding six months under any state or federal welfare program
9 to aid the indigent, or

10 (B) has an annual family gross income of less than
11 \$5,600 for the year preceding application.

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

13 (23) "subsistence uses" means the customary and traditional
14 uses [IN ALASKA] of wild, renewable resources by a resident of a rural
15 subsistence area of the state for direct personal or family noncommer-
16 cial consumption as food, shelter, fuel, clothing, tools, or transpor-
17 tation, for the making and selling of handicraft articles out of
18 nonedible by-products of fish and wildlife resources taken for direct
19 personal or family noncommercial consumption, and for the customary
20 trade, barter, or sharing for direct personal or family noncommercial
21 consumption; for the purposes of this paragraph, "family" means all
22 persons related by blood, marriage, or adoption, and any person living
23 within the household on a permanent basis;

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

25 (28) "personal use fishing" means the taking of, or the
26 attempt to take, finfish, shellfish, or other fishery resources in an
27 area other than a rural subsistence area by a resident for direct
28 personal or family consumption, not for sale or barter, by means of
29 gill net, dip net, seine, pot, fishwheel, long line, or other similar

1 means defined by the Board of Fisheries; personal use fishing is
2 limited to areas which, in the judgment of the board, can support both
3 personal use fishing and sport fishing because of an abundance of
4 fishery resources in the area;

5 (29) "resident of a rural subsistence area" means

6 ~~[(A)]~~ a person who, for 12 consecutive months, has main-
7 tained in a single rural subsistence area a permanent place of
8 abode and a voting residence;

9 ~~[(B) a member of the military service who has been~~
10 ~~stationed, or a dependent of the member who has been living, for~~
11 ~~the preceding 12 consecutive months in a single rural subsistence~~
12 ~~area is a resident of that area; or~~

13 ~~(C) an alien who, for 12 consecutive months, has main-~~
14 ~~tained in a single rural subsistence area a permanent place of~~
15 ~~abode;]~~

16 (30) "rural subsistence area" means a community or area of
17 the state in which there are no practical alternative means for re-
18 placing food supplies and other items that are gathered from fish and
19 game by rural residents who are dependent on subsistence resources, as
20 determined by the Board of Fisheries or the Board of Game after con-
21 sidering the following criteria:

22 (A) lack of cash economy, sources of employment, or
23 stores in the community;

24 (B) customary and traditional community dependence for
25 sustenance on the consistent harvest and use, in a cost effective
26 manner, of fish or game that is near or reasonably accessible
27 from the community;

28 (C) remoteness of the community and lack of access by
29 road, regularly scheduled barge, ferry, railroad or airplane

1 service; and

2 (D) community population of less than 500 persons;

3 (31) "subsistence hunting" means the taking of a game animal
4 by a resident of a rural subsistence area for subsistence uses by
5 means defined by the Board of Game.

6 * Sec. 12. AS 16.05.257(h)(1) is repealed.
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SENATE BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to fishing and hunting."

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

* Sec. 1. FINDINGS AND INTENT.

(1) Sound management of fish and wildlife will be best achieved if the allocation of fish and wildlife between different user groups is done on a biological basis, rather than on the basis of land ownership.

(2) Maintaining healthy and natural populations of fish and wildlife is important to Alaska in that healthy and natural populations of fish and wildlife provide unique opportunities for a subsistence life-style, for trophy and other hunting and fishing, for commercial fishing and for wildlife viewing, that surpass such opportunities in the rest of the United States.

(3) In order to assure that these opportunities shall continue to be reasonably available it is necessary

(a) that there be an equitable balance between sport, commercial, and subsistence needs,

(b) that in times of resource shortage there be a reasonable preference for subsistence use of stocks of fish and populations of game that are important to subsistence uses.

(c) that the Board of Fisheries and the Board of Game have sufficient authority, flexibility and information necessary to manage uses of fish and wildlife to maintain sustained yield, to maintain healthy and natural populations, and to maintain meaningful opportunities for subsistence, sport, commercial and other consumptive and non-consumptive uses of fish and game.

* Sec. 2. AS 16.05.094 is amended to read:

The division of subsistence hunting and fishing shall:

(1) comply and analyze existing data and data gathered in future studies, and conduct studies to gather information including data from subsistence users, the public, other divisions within the Department and other state or federal agencies, on all aspects of subsistence hunting and fishing in the lives of the residents of the state; provided that in doing such analysis and studies the division shall as clearly as possible set forth and identify --

(A) the species, stocks, and populations of fish and wildlife used for customary and traditional subsistence uses in specific areas of the State;

(B) the degree of significance that such species, stocks and populations have to customary and traditional subsistence uses and users in specific areas of the state;

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(C) customary and traditional subsistence uses of fish and wildlife by species, stock and population of such fish and wildlife in specific areas of the state:

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(D) ^{areas} customarily and traditionally used for, and presently used for subsistence harvest by species, stock and population of fish and wildlife and by population of subsistence users.

(E) areas, habitats, flyways, watersheds and the like, whether within Alaska or outside, that are utilized by fish and wildlife subject subsistence uses; provided that such areas, habitats, flyways, watersheds and the like shall be identified in cooperation with other divisions of the Department and other state or federal agencies having jurisdiction over fish and wildlife;

(F) the impacts and extent of impact, if any, that subsistence use of specific species, stocks, or populations have on the conservation of healthy and natural populations of such fish and wildlife, the sustained-yield of such species, stocks or populations, other subsistence, sport, or commercial users whether within or outside of Alaska; provided that such impacts shall be identified in cooperation with other divisions of the Department and other state or federal agencies having jurisdiction over fish and wildlife.

(2) seek to quantify in a timely fashion the amount, nutritional value, and extent of dependence on food acquired through subsistence hunting and fishing, by species, stock, or population of fish and wildlife and by population of customary and traditional subsistence users, and by subsistence use areas:

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

(4) assist the department, the Board of Fisheries, and the Board of Game in determining what uses of fish and game, as well as which users and what methods, should be termed customary and traditional subsistence uses, users, and methods:

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

(6) make recommendations to the Board of Game and the Board of Fisheries regarding adoption, amendment and repeal of regulations effecting subsistence hunting and fishing; provided that such recommendations shall be made after prior consultation with other divisions of the department, or when appropriate with other state or federal agencies having jurisdiction over fish and wildlife; and

provided further that such recommendations must be approved by the Commissioner of the department:

(7) participate with other divisions of the department and with other departments of state and federal government in the preparation of statewide, [AND] regional or area management plans affecting fish, wildlife and their habitats so that those plans recognize [REORGANIZE] and incorporate the needs of subsistence users of fish and game.

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

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

(1) setting apart and managing ^{designating} fish reserve areas, refuges and sanctuaries in the water of the state over which it has jurisdiction, subject to approval of the legislature;

(2) establishing open and closed seasons and areas for ^{2 management} the taking of fish;

(3) setting quotas, bag limits, harvest levels, escapements, and sex and size limitations pertaining to [on] the taking of fish in Alaska waters or bound for Alaska waters; ^{for management}

(4) establishing the means and methods, such as appropriate gear, tackle, vessels and other such items, employed in the pursuit, capture, and transport of fish;

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

(6) classifying as commercial fish, sport fish, personal use fish, subsistence fish, [indigenous] fish, exotic fish, [transplanted] fish, hatchery fish, or predators or other categories essential for regulatory purposes, and as necessary, prohibiting or authorizing the live capture, possession, transport or release of native, non-native or exotic fish or their eggs;

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

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

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

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

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

(12) designating and regulating special fishing areas, including but not limited to personal use areas, trophy management areas, catch-and-release areas, children's fishing areas, and the like, and designating species in such areas appropriate for such special management;

(13) establishing a procedure for administrative appeal of decisions by the Board; and

(14) otherwise regulating commercial, sport, subsistence, and personal use fishing as necessary for the conservation, development and utilization of fisheries.

* Sec. 4. AS 16.05.251(b) is amended to read:

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) for [PERMITTING] the taking of fish for subsistence uses unless the board

determines, in accordance with the Administrative Procedure Act, that adoption of such regulations could [WILL] jeopardize or interfere with the maintenance of fish stocks so as to be inconsistent with sound management principles, the conservation of healthy and natural populations of fish, or [ON] a sustained-yield basis. Except as otherwise provided in this Act or in other state or federal laws, the taking of fish [~~on state lands~~ ^{all} ~~and~~ ^{public lands} ~~or~~ ^{waters} ~~]~~ for nonwasteful customary and traditional subsistence uses shall be accorded preference over ^{other} ~~(the)~~ consumptive taking and uses of fish ~~(for other purposes)~~; provided that such preference shall not be construed as a preference over non-consumptive taking and uses of fish such as catch-and-release fisheries where the fish population or stock is not substantially related to customary and traditional subsistence need or where the taking, capture, tagging or transport of fish is done for biological or management purposes. § Whenever it is necessary to restrict the taking of [~~populations of~~ ^{stocks} fish] ~~on~~ [✓] such lands or waters for subsistence uses in order to protect the continued viability of such ^{stocks} ~~populations~~ as healthy and natural ^{stocks} ~~populations~~, or to assure sound management or to assure the maintenance of fish stocks on a sustained-yield basis, or to continue such uses [ASSURE THE CONTINUATION OF SUBSISTENCE USES OF SUCH RESOURCES], such preference

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shall be implemented through appropriate limitations based on the application of the following criteria: [SUBSISTENCE USE SHALL BE THE PRIORITY USE. IF FURTHER RESTRICTION IS NECESSARY, THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORITIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITERIA:]

(1) customary and direct dependence upon the populations [RESOURCE] as the mainstay of [ONE'S] livelihood;

(2) local residency; and

(3) the availability of alternative resources.

* Sec. 5. AS 16.05.251 is amended by adding new subsections to read:

(d) Subsistence fishing authorized under this section is subject to [reasonable] regulation of seasons, catch limits, methods, and means.

(e) If the Board of Fisheries determines that (1) a particular fish stock is not a customary and traditional subsistence resource or not a significant source of subsistence use for rural subsistence area residents and (2) subsistence is not the best use of that fish stock, the board may provide that the fish stock may not be taken under subsistence regulations, but may be taken under other regulations if appropriate; and provided further that the board may shift subsistence use of a fish stock to another stock only if there is a prior or

contemporaneous stock of the same ^{species} or different species that is suitable and available.

(f) The Board of Fisheries shall establish an appeal procedure for persons aggrieved by the adoption or repeal of a regulation of the board. The aggrieved person must exhaust this administrative remedy before bringing a legal action challenging the regulation.

* Sec. 6. AS 16.05.295(a) is amended to read:

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

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

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

(3) establishing the means, [AND] methods, marking and identification requirements employed in the pursuit, capture, possession, tagging and transport of game;

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

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

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

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

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

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

10. regulating sport hunts and subsistence hunts as necessary for the conservation, development and utilization of game and non-game species.

• Sec. 7. AS 16.05.255(b) is amended to read:

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.02) for [PERMITTING] the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of

such regulations could (WILL) jeopardize or interfere with the maintenance of game populations so as to be inconsistent with sound management principles, the conservation of healthy and natural populations of game, or (W) a sustained-yield basis. Except as otherwise provided in this Act or in other state or federal laws, the taking of game on state or federal public lands or waters for nonwasteful customary and traditional subsistence uses shall be accorded preference over the consumptive taking and uses of game for other purposes provided that such preference shall not be construed as a preference over either non-consumptive uses of game in areas such as national parks that are closed to all or substantially hunting, or over non-consumptive taking of game such as the taking, capture, tagging or transport of game when done for biological or management purposes, whenever it is necessary to restrict the taking of populations of game on such lands or waters for subsistence uses in order to protect the continued viability of such populations as healthy and natural populations, or to assure sound management or to assure the maintenance of game resources on a sustained-yield basis, or to maintain such uses (ASSURE THE CONTINUATION OF SUBSISTENCE USES OF SUCH RESOURCES). such preference shall be implemented through appropriate limitations based on the application of the following

criteria: (SUBSISTENCE USE SHALL BE THE PRIORITY USE. IF FURTHER RESTRICTION IS NECESSARY, THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORITIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITERIA:)

(1) customary and direct dependence upon the population (RESOURCE) as the mainstay of (GAME'S) livelihood;

(2) local residence; and

(3) the availability of alternative resources.

• Sec. 9. AS 16.45.255 is amended to add a new subsection to read:

(d) Subsistence hunting authorized under this section is subject to [reasonable] regulation of seasons, bag limits, methods, and means.

(e) If the Board of Game determines that (1) a particular game species is not a customary and traditional subsistence resource or not a significant source of subsistence use for rural subsistence area residents and (2) subsistence is not the best use of that game population, the board may provide that the game population may not be taken under subsistence regulations but may be taken under other regulations if appropriate and provided further that the board may shift subsistence use of a game population if there is a suitable and available alternative population of the game or different species.

(f) The Board of Game shall establish an appeal procedure for persons aggrieved by the adoption or repeal or enforcement of a subsistence hunting regulation of the board. The aggrieved person must exhaust this administrative remedy before bringing a legal action challenging the regulation.

• Sec. 9. AS 16.05.257(h)(1) is amended to read:

(1) "subsistence hunting" means the taking, hunting for, or possession of game animals by a rural Alaska resident qualified for nonwasteful, customary, and traditional subsistence uses by method and means defined by the Board of Game:

• Sec. 10. AS 16.05.257(h)(2) is amended to read:

(2) "subsistence hunting area" for purposes of this section means an area in which only subsistence hunting of the affected species is permitted and which shall be (15) managed to restore, if possible, the population of such affected species so that it can sustain use by subsistence, sport, commercial and non-consumptive users (FOR MAXIMUM FOOD POTENTIAL).

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• Sec. 11. AS 16.05 is amended by adding the following section:

Sec. 16.05.258. Method of Determining Customary and Traditional Subsistence Use and Allocating Fish and Game. (a) In joint session, the Board of Fisheries and the Board of Game shall seek to:

(1) identify and quantify the amount of customary and traditional subsistence uses of fish and game that is necessary to provide a reasonable opportunity for rural residents engaged in a subsistence way of life to do so; provided that such determinations shall be based at least upon the research, analysis, comments and recommendations of the subsistence division of the department that are reviewed and concurred in by the other divisions of the department.

(2) identify and designate customary and traditional subsistence use zones utilized by such rural residents;

(3) identify fish stocks and game populations that customarily and traditionally have been important subsistence stocks and populations utilized by such rural residents for subsistence use;

(b) The Board of Fisheries or the Board of Game will assess the biological status of respective fish stocks and game populations that are important subsistence stocks and populations within the use zones and determine whether a surplus may be harvested during a regulatory year consistent with the utilization, development and conservation of such stocks and populations on the sustained yield principle, consistent with the conservation of healthy and natural populations of the resource, and consistent with the public interest;

(c) After identifying subsistence uses of a fish stock or game population that is important to customary and traditional subsistence use and after determining the amount of harvestable surplus, the appropriate board will determine the amount of harvestable surplus of such stock or population required to provide a reasonable opportunity to engage in customary and traditional subsistence uses, and will adopt regulations which authorize the taking of such stock or population for subsistence uses; provided that such regulations may be the same as, different from or in addition to regulations governing other consumptive uses of the stock or population.

(d) Each board will, in its discretion, adopt regulations pursuant to AS 16.05 which authorize the taking, for non-subsistence uses, of any stock or population identified as important for subsistence use, to the extent that the non-subsistence uses do not jeopardize or interfere with the conservation utilization and development of fish and game resources on a sustained yield basis or the conservation of natural and healthy populations, or with the opportunity for taking these resources for customary and traditional subsistence uses as provided by the section.

(e) In joint session the boards shall adopt regulations establishing criteria for defining "customary and traditional

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subsistence use. Such regulations may include, but need not be limited to, the following previously adopted criteria, which shall be in effect until such time as the boards re-adopt, supplement or amend the following criteria:

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

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

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

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

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

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

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

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

Amendments

* Sec. 12. AS 16.05.330 is amended by adding the following subsection:

(c)(1) The Board of Fisheries and the Board of Game may adopt regulations, in accordance with the Administration Procedure Act (AS 44.62), providing for the issuance and any fees for subsistence fishing licenses, subsistence hunting licenses, and combination subsistence fishing and hunting licenses as necessary for authorizing,

regulating and monitoring subsistence harvest of fish and game. This authority shall be implemented when significant competition for fish stocks and game populations, resource shortage, or other management or biological considerations make such a program of licensing a useful tool of fish and game management. This authority shall not be construed as automatically requiring such a licensing program in any particular area of the state or upon any particular stock of fish or game population unless circumstances of significant competition, shortage, or other management or biological considerations exist which warrant such a program. For purposes of this subsection, "significant competition" occurs whenever the preference for subsistence uses requires a reduction in the harvest of a fish stock or game population by non-subsistence users.

(2) In determining an appropriate method of licensing each board, in its discretion, may adopt subsistence licensing programs that license individuals, identifiable groups of individuals, residents of a community or village, or residents of an area.

(3) With the assistance of the department, the boards shall seek to notify or otherwise make available to subsistence users -

(A) the terms of any applicable license issued;

(B) the types of licenses available;

(C) the fish stocks and game populations for which subsistence uses are authorized;

(D) subsistence use areas covered by such licenses;

(E) other regulations governing subsistence and non-subsistence uses, such as harvest limits, seasons, and methods and means restrictions.

Regardless of whether or not a licensing program is in effect pertaining to a particular area, fish stock, or game population, the boards shall seek to notify or otherwise make available to subsistence users the information described in this subsection. In notifying or making available such information the boards may utilize village and regional corporations formed under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and community, postal, media or other services appropriate for providing notice to subsistence users.

(4) The Department of Fish and Game shall administer any subsistence licensing program through its own staff and may also enter into agreements to utilize the services of native village or regional corporations, local officials, or others to assist in administering a subsistence licensing program; provided that no agreement for such assistance shall obligate the state to pay for such services unless paid for by either the receipts of fees for subsistence licensing

programs or by prior authorization by the legislature.

* Sec. 13. AS 16.05.930(e) is amended to read:

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency order or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

* Sec. 14. AS 16.05.940(22) is amended to read:

(22) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resource, by a rural Alaska resident qualified for nonwasteful, customary and traditional subsistence uses with gill net, seine, fish wheel, long line, or other methods and means defined by the Board of Fisheries:

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SENATE BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act relating to fishing and hunting."

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

* SECTION 1. FINDINGS.

The legislature finds that

(1) The allocation of fish and game to subsistence users and non-subsistence users is a source of great division and controversy among Alaskans. The controversy must be resolved in a manner that is fair and generally perceived as fair to all Alaskan and non-Alaskan users of fish and game, regardless of whether those users are subsistence, commercial, sport, or non-consumptive users.

(2) Article III, Section 3 of the Alaska Constitution provides that wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use, and Article VIII, Section 4 provides that fish and wildlife shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

(3) All groups and classifications of users have equally legitimate claims upon the fish and game of Alaska, unless either the federal government under its authority or the Alaska legislature pursuant to Article VIII, Section 4 of the Alaska Constitution establishes a preference or preferences. Therefore, claims to greater

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legitimacy by one class of users and claims of equal legitimacy among different users evoke political and social questions, and the question of whether there should be a preference under state law for subsistence use over other consumptive uses is a political and social question appropriate for the legislature to decide.

(4) The federal government, through the Alaska National Interest Lands Conservation Act, P. L. 96-487, has established on most federal public lands a preference for customary and traditional subsistence uses of fish and wildlife by rural residents of Alaska. The Alaska National Interest Lands Conservation Act also provides that the State may implement this preference if the State adopts laws of "general applicability" which are consistent with, and which provide for the definition of subsistence uses, the preference for subsistence uses, and the public participation in regulating subsistence uses, as found in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act. If the State does not adopt such laws of general applicability, consistent with the definition, preference and participation, then the federal government is obligated by the Alaska National Interest Lands Conservation Act to implement the subsistence definition, preference and participation concerning fish and wildlife management on federal public lands in Alaska.

(5) Alaska is approximately three hundred seventy-five million acres. Federal public lands presently comprise approximately three hundred million acres and when state and Native land selections have been fully conveyed, federal public lands will comprise approximately two hundred twenty-five million acres, which is approximately sixty percent of the State. Those federal lands include almost two hundred million acres that are open to sport hunting, sport fishing, commercial fishing, and commercial guiding of hunters, anglers, and non-consumptive users. Most but not all of these lands have been open to subsistence use under previous state management of subsistence uses.

(6) The federal government has notified the State that the decision of the Alaska Supreme Court in Madison v. Alaska Department of Fish and Game, No. 2911, which found that urban Alaskans may qualify for subsistence under state law, puts the State in a position of being inconsistent with the provisions of the Alaska National Interest Lands Conservation Act that provides a subsistence preference only to rural residents of Alaska. Further, the federal government has notified the State that the United State Department of the Interior will implement and enforce its obligations on federal public lands if the State does not amend, by June 1, 1986, its subsistence

laws so as to be consistent with the Alaska National Interest Lands Conservation Act.

(7) Fish and wildlife pay no attention to whether they are on state, federal or private lands. Furthermore, sport and subsistence users of fish and wildlife frequently utilize federal and state lands without recognizing boundaries that are unmarked, unsurveyed, unlocatable and frequently changing because of conveyances to the state of state land selections under the Alaska Statehood Act. Therefore, to subject transient fish and wildlife and transient users to different management regimes based on state, federal and private ownership would be inconsistent with sound resource management and would burden all users with the obligation to ascertain current ownership of the land intended to be hunted or fished and would create unknown but potentially substantial enforcement problems.

(8) Because of the transient character of fish and wildlife and the users of them, because of the diverse pattern of land ownership, because of the need for consistent management of fish and wildlife populations across different land ownerships, and because the need to provide fairly for subsistence, sport and commercial harvest of fish and wildlife, it is in the State's best interest to manage fish and wildlife on state, federal and private lands in a manner that is

consistent with sound resource management regardless of ownership of the land. This can only be accomplished by having the state in a position to exercise its authority regardless of land ownership, and this in turn can only be accomplished by amending the state subsistence laws so that they are consistent with sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act.

(9) Because the State has implemented a subsistence preference since 1980 that until the Madison case had been consistent with the Alaska National Interest Lands Conservation Act, the State has had an excellent opportunity to identify many of problems that have arisen with respect to the subsistence preference. Accordingly, the Madison decision, by providing an opportunity to amend the state subsistence law, also provides an opportunity to enact other amendments that will more fairly balance subsistence, sport, and commercial needs and will more adequately develop, utilized and conserve the state's fish and wildlife. If a greater sense of fairness, equal treatment and appropriate management can be achieved, then the public controversy that has surrounded subsistence may subside.

* Section 2. POLICY AND INTENT.

The Alaska Legislature declares that it is the policy and intent of the State and the intent of the Legislature to:

Many argue that since the start (pre-madison) did not touch on subsistence priority, the state had not complied with ANILCA. No one since that time.

(1) seek an equitable balance between sport, commercial, and subsistence needs.

(not an objective rule)

(2) provide a preference for subsistence needs subject to reasonable regulation, including licensing, stocks of fish and wildlife to which the preference may apply, and for identification of areas of the state as areas in which the preference might apply.

(3) provide the Boards of Fisheries and the Board of Game with guidance for identification of appropriate subsistence targets.

(4) recognize that hunting and fishing is economically and culturally important to many Alaskans in rural and urban settings, and to recognize that customary and traditional hunting and fishing in many parts of rural Alaska is an important aspect of rural Alaskan culture, and frequently of Native culture.

True but the will have important some provisions

(5) recognize that most rural Alaskans live in a mixed cash and non-cash economy, and that in a historic sense, subsistence hunting and fishing have changed in recent decades such that the success of hunting, fishing and gathering by rural Alaskans today is rarely tied to the question of physical survival, and is now more appropriately tied to the question of survival of a cultural lifestyle dependent in large part on hunting, fishing and gathering.

(6) recognize that the continuation of a reasonable opportunity for customary and traditional subsistence uses by rural Alaskans needs to be protected for those who are customarily and traditionally dependent, in an economic or cultural sense, on the continuation of a meaningful opportunity to hunt and fish for sustenance, and

(7) protect sport, commercial and customary and traditional subsistence uses from competition by individuals not engaged in customary and traditional subsistence, regardless of whether those individuals are urban or rural residents.

(8) subject to a reasonable preference for customary and traditional subsistence protect to the maximum extent possible, the unique recreational opportunities for trophy and high quality fishing and hunting that are available in Alaska, and in many instances only in Alaska, and that are of international significance, and

(9) delegate to the Board of Fisheries and the Board of Game sufficient authority to manage fish and wildlife with flexibility, so that the boards shall ensure the sustained yield of all fish and wildlife stocks and populations for nonwasteful sport, commercial and subsistence purposes and so that the boards shall ensure the maintenance and conservation of healthy and natural

populations of fish and wildlife in order that sport purposes focused on high quality sport or trophy hunting and fishing can also continue to be meaningfully offered.

• Section 3. AS 16.05.094 is amended to read:

The division of subsistence hunting and fishing shall:

(1) compile and analyze existing data and data gathered in future studies, and conduct studies to gather information including data from subsistence users, the public, other divisions within the Department and other state or federal agencies, on all aspects of subsistence hunting and fishing in the lives of the residents of the state; provided that in doing such analysis and studies the division shall clearly establish the following:

(A) the species, stocks, and populations of fish and wildlife for customary and traditional subsistence uses in specific areas of the state;

(B) the degree of significance that such species, stocks and populations have to customary and traditional subsistence uses and uses in specific areas of the state;

(C) customary and traditional subsistence uses of fish and wildlife by species, stock and population of such fish and wildlife in specific areas of the state;

Hein
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

27 (b) **[Consistent with sustained yield]** The boards shall determine

28 (1) what portion, if any, of the stocks and populations
29 identified under (a) of this section can be harvested ^{Consistent with sustained yield} and

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

4 (c) The boards shall adopt subsistence fishing and subsistence
5 hunting regulations for each stock and population for which a harvest-
6 able portion is determined to exist under (b)(1) of this section. If
7 the harvestable portion is not sufficient to accommodate all consump-
8 tive uses of the stock or population, but is sufficient to accommodate
9 subsistence uses of the stock or population, then ^{nonwasteful} 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 Takings authorized under this section are subject to reason-
2 gulation of seasons, catch or bag limits, and methods and
3 means. Takings and uses of resources authorized under this section
4 are subject to AS 16.05.831 and AS 16.30.

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

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

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

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

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

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

- 26 • Sec. 7. AS 16.05.940(22) is amended to read:

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

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

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

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

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

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

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

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

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

1 by the Board of Fisheries;

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

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

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

10 * Sec. 11. This Act takes effect June 1, 1986.
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Hein ✓
3/4/86
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Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

23 (a) The Board of Fisheries and the Board of Game shall identify the
24 fish stocks and game populations, or portions of stocks and popu-
25 lations, that are customarily and traditionally used for subsistence
26 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:

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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:

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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:

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24 or possession of fish, shellfish, or other fisheries resources by a
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26 with gill net, seine, fish wheel, long line, or other means defined by
27 the Board of Fisheries;

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17 (29) "fish stock" means a species, subspecies, geographic
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22 or possession of finfish, shellfish, or other fishery resources, by
23 Alaska residents for personal use and not for sale or barter, with
24 gill or dip net, seine, fish wheel, long line, or other means defined
25 by the Board of Fisheries;

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

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

Hein
2/26/86 ✓

Original sponsor: Rules/Governor

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BY THE RESOURCES COMMITTEE

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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.

Income and Subsistence: Relationships in Rural Alaska

The relationship of household income levels and subsistence in rural Alaska has been examined in several recent community studies in Western Alaska (Wolfe 1979; Wolfe 1983; Wolfe et al 1984; and Wolfe 1985). These studies have demonstrated that there are complex relationships between household income and subsistence participation, productivity, and need. The findings of these studies are summarized briefly below.

Subsistence is Supported by Income and Employment

One finding is that households with the largest subsistence harvests in a community also have the largest monetary incomes and greatest participation in employment. Evidence of this is shown by the annual subsistence harvests and incomes of a sample of 88 households from six communities on the Yukon-Kuskokwim Delta:

Table 1. Subsistence Harvests by Major Income Source

<u>Household's Major Income Source</u>	<u>Mean HH Income</u>	<u>Mean HH Harvest</u>	<u>Mean Harvest Per HH Member</u>
Wage employment and commercial fishing	\$23,362	9,274 lbs	880 lbs
Wage employment only	19,025	4,608	1,047
Commercial fishing only	16,926	3,920	624
Transfer payments	6,468	2,741	435

Based on a sample of 88 households from Alakanuk, Eronok, Kotlik, Mountain Village, Sheldon Point, and Stebbins, for the period June 1980 through May 1981 (from Wolfe 1984).

This table shows that the households with jobs in commercial fishing and wage employment had the largest incomes (on average, about \$19,025 to \$23,362) and harvested the most subsistence fish and game (on average, about 860 to 1,047 lbs per person per year). The households with the lowest earned incomes received most of their money from government transfer payments (on average, about \$6,468) and harvested the smallest amount of subsistence foods (about 435 lbs). (For comparison, the average American in the continental United States consumed 285 lbs of meat, fish, and poultry in 1983, and a total of 1,371 lbs of all foods). These relationships between income and subsistence at the household level have been replicated in Wolfe (1979, 1983) and Wolfe et al (1984).

There are several reasons why households with the largest monetary earnings also tend to have the largest subsistence harvests in rural villages. First and foremost, the households with small monetary incomes tend to be composed of the elderly without children, single mothers with dependent children, or young couples just getting established. The elderly without children, and single mothers with dependent children, have incomplete labor forces to effectively participate in monetary employment or subsistence fishing and hunting. They earn low incomes, produce relatively smaller subsistence harvests, and often cannot support themselves. These households commonly

receive subsistence fish and game products from relatives and friends in the village to help support themselves.

Secondly, the households with the largest monetary incomes and largest subsistence harvests are often mature household units composed of middle aged parents with adolescent children. The households have a relatively large, mature work force which participates in subsistence activities, and in addition, participates in monetary employment (such as seasonal commercial fishing, capital construction projects, and so forth). Collectively, the earnings of the household members result in the relatively larger household incomes. The households also commonly own a complete set of equipment for hunting and fishing, such as snowmachines, skiffs, outboards, nets, smokehouses, fishracks, and so forth. For example:

Table 2. Household Equipment Holdings

<u>Income and Employment Category</u>	<u>Average Pieces of Subsistence Equipment per Household</u>
High Income Fishermen	15.8
Mixed Commercial Fishing and Wage Employment	10.3
Low Income Fishermen	6.3
Wage Employment Only	5.0
Transfer Payments	1.5

Based on a sample of 20 case households from Goodnews Bay, New Stuyahok, Quinhagak, and Togiak for the year 1983 (from Wolfe et al. 1984).

Thus, mature households have more household members and more equipment: this pool of labor and capital enables the household to be highly productive in both subsistence activities and commercial-wage employment. These mature households share their subsistence fish and game with the "poorer" households in the community which cannot support themselves.

It is clear to see why using an arbitrary household income level to define subsistence need makes no sense in this type of village economy. Households are really not independent units. Households are linked together in economic networks. The households with low monetary incomes and low subsistence harvests depend on the households with higher monetary incomes and higher subsistence harvests for support. Subsistence products flow between them. If fishing and hunting regulations prohibited the subsistence harvests of households with higher incomes, the regulations would be cutting off the community's major subsistence producers.

Households Combine Subsistence and Monetary Activities

A second related finding is that households typically combine subsistence and commercial-wage activities during a year in order to survive. Monetary income is needed to purchase the equipment used for subsistence fishing and hunting. Money is also needed for purchasing fuel, shelter, clothing, imported food items, and other basics. The most

successful households are those which are able to combine commercial-wage activities and subsistence fishing and hunting activities during the year. Wolfe et al (1984) found that seasonal commercial fishing was an activity especially compatible with subsistence fishing and hunting. It was a short-term, flexible source of income, using similar skills, equipment, and labor used in subsistence activities. Households also commonly combined subsistence and commercial-wage activities through complementary work roles: some household members worked for money, while others worked in subsistence fishing and hunting, pooling the results of their efforts. Another household strategy was for members to substitute for one another on a wage job to allow members to hunt and fish. Another practice was fishing and hunting during off-hours, weekends, leaves, and vacations. Village employers commonly allowed flexible hours and substitution policies to accommodate subsistence fishing and hunting activities by employees.

Under this kind of mixed subsistence-cash economy, it makes little sense to define subsistence in terms of wage employment criteria. Households whose members hold jobs also participate in subsistence fishing and hunting in the villages.

References Cited

Wolfe, Robert J.

1979 Food Production in a Western Eskimo Population. Ph.D. dissertation in anthropology, University of California, Los Angeles.

1983 The Economic Efficiency of Food Production in a Western Eskimo Population. In Steve J. Langdon (comp) Contemporary Subsistence Economies of Alaska, Division of Subsistence, Alaska Department of Fish and Game, Fairbanks, p. 265-309.

1984 Commercial Fishing in the Hunting-Gathering Economy of a Yukon River Yup'ik Society. Etudes/Inuit/Studies, Supplementary Issue 8:159-183.

Wolfe, Robert J., Joseph J. Gross, Steven J. Langdon, John M. Wright, George K. Sherrod, Linda J. Ellanna, Valerie Sumida, and Peter J. Usher

1984 Subsistence-Based Economies in Coastal Communities of Southwest Alaska, Technical Paper No. 89, Division of Subsistence, Alaska Department of Fish and Game, Juneau.

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY

2/5/86

Date 3/12/86

Mr. President

The Committee on RESOURCES considered CSHB 288(JUD) am
taking of fish and game for subsistence and personal use; efd.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 288 (JUD) am
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

Rick Halford Do Not Pass

Violates Art 1 Sec 1

AK Const.

Do not PASS

Violate the individuals

Right

Butcher hunting No Rec

Chairman

Do Pass

Chairman recommendation

Hein

A M E N D M E N T

Offered in the SENATE

By Halford

TO: SCS CSHB 288(Resources)

Page 4, line 10:

Delete "a" and "section";

after "new" insert "sections"

Page 4, after line 13, insert a new section to read:

"Sec. 16.05.262. LICENSE REQUIRED FOR SUBSISTENCE TAKINGS. A person who takes fish or game for subsistence uses shall have in possession a current, valid resident hunting, trapping, and sport fishing license that was issued under AS 16.05.340(a)(6) ~~(B)~~ (B) to the person or to another individual for whose benefit the person is taking the fish or game."

Hein
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (2) local residency; and

23 (3) availability of alternative resources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by the Board of Fisheries;

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

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

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

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

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Hein
2/26/86 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
 2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)
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12 this paragraph, "family" means [ALL] persons related by blood, mar-
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Original sponsor: Rules/Governor

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IN THE HOUSE BY THE RESOURCES COMMITTEE

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

- Section 1. AS 16.05.251(a)(6) is amended to read:

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

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

(12) regulating commercial, sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries.

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

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

- Sec. 4. AS 16.05 is amended by adding new sections to read:

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

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

(b) The boards shall determine

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

1 sustained yield, and

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

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

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

23 (2) local residency; and

24 (3) availability of alternative resources.

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

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

1 may be taken only under nonsubsistence regulations.

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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Introduced: 3/13/85
Referred: State Affairs, Resources,
Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 231

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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 62) for

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

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

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

1 size limitations on the taking of fish;

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

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

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

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

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

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

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

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

25 (12) personal use fishing.

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

27 (23) "subsistence uses" means the customary and traditional
28 uses by rural [IN] Alaska residents of wild, renewable resources for
29 direct personal or family consumption as food, shelter, fuel,

1 clothing, tools, or transportation, for the making and selling of
2 handicraft articles out of nonedible by-products of fish and wildlife
3 resources taken for personal or family consumption, and for the cus-
4 tomary trade, barter, or sharing for personal or family consumption;
5 for the purposes of this paragraph. "family" means all persons related
6 by blood, marriage, or adoption, and any person living within the
7 household on a permanent basis;

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

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

14 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).

16

Offered: 4/19/85
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 288 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the taking of fish and game for
7 subsistence and personal use; and providing for an
8 effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. FINDINGS. The legislature finds that
11 (1) the taking of fish stocks and game populations for personal
12 and family consumption and related uses is essential to the health, safety,
13 and general welfare of Alaskans domiciled in rural communities or rural
14 areas in which the taking of fish and game for such uses is a significant
15 part of the economy of the community or area; and
16 (2) the taking of fish stocks and game populations for personal,
17 sport, and commercial uses is also of economic and recreational importance
18 to Alaskans who reside anywhere in the state.
19 * Sec. 2. AS 16.05.251(a) is amended to read:
20 (a) The Board of Fisheries may adopt regulations it considers
21 advisable in accordance with the Administrative Procedure Act (AS 44.-
22 62) for
23 (1) setting apart fish reserve areas, refuges and sanctu-
24 aries in the waters of the state over which it has jurisdiction,
25 subject to the approval of the legislature;
26 (2) establishing open and closed seasons and areas for the
27 taking of fish;
28 (3) setting quotas, bag limits, harvest levels, and sex and
29 size limitations on the taking of fish;

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

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

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

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

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

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

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

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

24 (12) personal use fishing.

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

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

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

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

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

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

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

19 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

21

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

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the taking of fish and game for
7 subsistence and personal use; and providing for an
8 effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 16.05.251(a)(6) is amended to read:
11 (6) classifying as commercial fish, sport fish, personal
12 use fish, subsistence fish, or predators or other categories essential
13 for regulatory purposes;
14 * Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:
15 (12) designating and regulating special fishing areas,
16 including personal use areas, trophy management areas, catch-and-
17 release areas, and children's fishing areas, and designating stocks in
18 those areas for which special management is appropriate;
19 (13) regulating commercial, sport, subsistence, and personal
20 use fishing as needed for the conservation, development, and utiliza-
21 tion of fisheries.
22 * Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:
23 (10) regulating sport hunts and subsistence hunts as needed
24 for the conservation, development, and utilization of game and nongame
25 species.
26 * Sec. 4. AS 16.05 is amended by adding new sections to read:
27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.
28 (a) The Board of Fisheries and the Board of Game shall identify the
29 fish stocks and game populations, or portions of stocks and

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

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

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

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

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

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

28 (2) local residency; and

29 (3) availability of alternative resources.

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

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

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

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

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

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

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

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

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

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

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

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

12 (1) the terms of the permit;

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

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

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

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