

circumstances shall not be affected thereby.

Sec. 39. **Repealer.** Chap. 38, SLA 1955, is hereby repealed.

Sec. 40. **Effective Date.** This Act shall take effect immediately upon its passage and approval, or upon its becoming law without such approval.

Approved April 16, 1959

CHAPTER 94

AN ACT

Relating to the fish and game resources of Alaska; providing for a Department of Fish and Game and its organizational structure; providing a code of laws relating to fish and game; providing for licensing and prescribing fees thereof; providing penalties for violations; repealing certain laws relating to the fish and game resources of the State; and providing for an effective date.

(H.B. 201)

Be it enacted by the Legislature of the State of Alaska:

Article I

The Department of Fish and Game

Section 1. **Title of the Act.** This Act shall be known and may be cited as the "Fish and Game Code of Alaska".

Sec. 2. **Definitions.** For the purposes of this Act, the following shall be construed respectively to mean:

- (a) "State": the State of Alaska.
- (b) "Department": the Alaska Department of Fish and Game.
- (c) "Board": the Alaska Board of Fish and Game.
- (d) "Commissioner": the Commissioner of the Alaska Department of Fish and Game.
- (e) "Person": the singular or the plural, including individuals, associations, partnerships, or corporations unless the context otherwise requires.
- (f) "Fish": all species of marine, anadromous, and fresh-water fish; amphibians, shellfish, and other invertebrates; or any of the foregoing that may be found or that may be introduced in the State of Alaska.
- (g) "Game": all species of birds and mammals, including feral domestic animals, found or that may be introduced in Alaska, except domestic birds and mammals; provided, however, that

"game" as herein defined may be classified by regulation as big game, small game, fur bearers or such other categories as may be deemed essential for carrying out the intention and purposes of this Act.

(h) "Take": taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game.

(i) "Sport fishing": the taking of or attempting to take for personal use, and not for sale or barter, any fresh-water, marine, or anadromous fish by spear or underwater gun or by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board.

(j) "Resident": a person who for the immediately preceding year has maintained a permanent place of abode within the State and who has continually maintained his legal residence in the State; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" shall mean one that has its main office or headquarters in the State of Alaska; provided, however, that any member of the military services stationed in the State for a period of twelve consecutive months shall be considered a resident for the purposes of this Act, and the dependents

of any such member shall likewise be considered residents for the purposes of this Act.

(k) "Non-resident": any citizen of the United States who does not qualify as a resident as herein defined.

(l) "Alien": any person, not a citizen of the United States, who does not have a petition for naturalization pending before the district court.

(m) "Visitor": any non-resident or alien who is temporarily sojourning in the State as a visitor or tourist.

(n) "Commercial fishing": the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of such fish, shellfish, or other fishery resources or parts thereof for profit, or by sale, barter, trade, or in commercial channels.

(o) "Commercial fisherman": an individual who fishes commercially for, takes or attempts to take fish, shellfish, or other fishery resources of Alaska by any means, and including every individual aboard boats operated for fishing purposes who participates directly or indirectly in the taking of the raw fishery products above mentioned, whether such participation be on shares or as employee or otherwise; provided, however, this shall not apply to anyone aboard a licensed vessel merely as a visitor or guest who does not directly or indirectly participate in the said taking. The term "commercial fisherman" shall also include the crews of tenders or other floating craft used in transporting fish.

(p) "Vessel": any floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the State.

(q) "Hunting": the taking of game pursuant to this Act and the rules and regulations promulgated thereunder.

(r) "Trapping": the taking of mammals declared by regulation to be fur bearers.

(s) "Guiding": accompanying, guiding, or assisting another person to take or photograph game, with the intent of receiving monetary or material remun-

eration for such services.

(t) "Fur dealing": engaging in the business of buying, selling, or trading in animal skins. The term shall not apply to a hunter or trapper selling the animal skins he has legally taken, or to a person, other than a fur dealer, purchasing animal skins for his own use.

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

(v) "Taxidermy": the tanning, mounting, processing, or other treatment or preparation of fish or game, or any part thereof, for monetary gain, including the receiving of such fish or game or parts thereof for such purposes.

Sec. 3. Department of Fish and Game. The Alaska Department of Fish and Game referred to in this Act is the Department of Fish and Game created by the State Organization Act of 1959.

Sec. 4. Commissioner of the Alaska Department of Fish and Game. There shall be a principal executive officer of the Department to be known as the Commissioner of Fish and Game. The Commissioner shall be a qualified executive with knowledge of the requirements for the protection, management, conservation, and restoration of the fish and game resources of Alaska. The Commissioner shall be appointed for a term of five years. He shall have general supervision and control over the Department and may appoint and employ division heads, enforcement agents, and such technical, clerical, and other assistants as may be necessary for the general administration of the Department. He shall be charged with the duty of managing, protecting, maintaining, improving, and extending the fish and game resources of Alaska in the interest of the economy and general well-being of Alaska, and, except as hereinafter provided, shall have all necessary power to accomplish the foregoing including, but

not limited to, the power to delegate authority to subordinate officers and employees of the Department.

The Commissioner shall not be a member of the Board of Fish and Game, but shall be ex-officio secretary and have the right to cast tie-breaking votes only.

Sec. 5. Compensation, Etc., of Commissioner. The Commissioner shall receive such compensation as may be fixed by law and, subject to appropriate State travel regulations, shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

Sec. 6. The Board of Fish and Game: Tenure: Powers. There shall be a Board of Fish and Game composed of eight members having a general knowledge of the fish and game resources of the State and selected without regard to political affiliation or special interest. They shall be United States citizens and residents of Alaska as herein defined. The members of the Board shall be appointed by the Governor, subject to confirmation by a majority of the members of the Legislature in joint session.

Each shall serve a four-year term, provided that the first members appointed hereunder shall serve as follows: two members shall serve for one year, two for two years, two for three years, and two for four years, respectively. Initial terms shall date from the first of February immediately preceding appointment. In case a vacancy shall occur on the Board, the Governor shall fill the same by appointment for the unexpired term, which appointment shall be submitted to the Legislature for confirmation at the next regular or special session.

The Board of Fish and Game shall have rule-making powers, as hereinafter provided, but shall not have administrative, budgeting, or fiscal powers, and such administrative, budgeting and fiscal powers shall reside in the Commissioner of Fish and Game. The Board may meet at any time on the call of the Commissioner or at the request of any two of the members.

The Board of Fish and Game shall have the authority to make such rules

and regulations as it deems advisable in accord with the Administrative Procedures Act for (1) the setting apart of fish and game reserve areas, refuges and sanctuaries in any of the waters or on any of the lands of Alaska over which it has jurisdiction, subject to the approval of the Legislature; (2) establishing open and closed seasons and areas for fish and game; (3) establishing the means and methods employed in the pursuit, capture, and transport of fish and game; (4) setting quotas and bag limits on the taking of fish and game; (5) classifying fish and game as commercial fish, sport fish, game birds, song birds, big game animals, fur bearing animals, predators, vermin, or other categories as may be essential for regulatory purposes; (6) establishing the qualifications for guides and assistant guides, regulating guide activities, and maintaining a guide register; (7) establishing, at places in the State designated by the Board, advisory committees to be composed of persons well informed on the fish and game resources of the locality. The Board shall set the number and terms of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall empower him, from time to time, to hold public hearings on fish and game matters. Recommendations from the advisory committees shall be forwarded to the Board for its consideration. The Commissioner shall delegate authority to advisory committees for emergency closures during established seasons; provided, however, any authority so delegated or order issued pursuant to this section may be countermanded and made null and void by the Commissioner. The Board shall establish the necessary rules governing such closures; (8) engaging in biological research, watershed and habitat improvement, fish and game management, protection, propagation and stocking; (9) investigating and determining the extent and effect of predation and competition among fish and game in Alaska and exercise such control measures as are deemed necessary to the resources of the State; (10) entering into cooperative agreements with educational institutions and state, federal, or other agencies, to promote fish and game research, management, education, and

information and to train men for fish and game management; (11) prohibiting the live capture, possession, transport, or release of native or exotic fish or game or eggs thereof.

For the purpose of administering this above, the Board may delegate any and all necessary function and authority to the Commissioner who shall act in its behalf. In the event of a conflict between the Board and the Commissioner on proposed rules and regulations, public hearings shall be held concerning the issues in question. If, subsequent to the public hearings, the Board and the Commissioner continue to disagree, the issue shall be certified in writing by the Board and the Commissioner to the Governor who shall make a decision, which decision shall be final.

Sec. 7. Removal of Board Members. The Governor may remove any Board member for inefficiency, neglect of duty, or misconduct in office by delivering to him a written copy of the charges and affording such member the opportunity of being heard in person or through counsel at a public hearing to be held before the Governor or his designee upon not less than ten days' notice by registered mail. The member shall have the right to confrontation by and cross-examination of all witnesses against him. Upon removal as aforesaid, the Governor or his designee shall file in the proper State office a complete statement of all charges made against the member and the findings thereon.

Sec. 8. Compensation, Etc., of Board Members. Members of the Board shall receive for their services compensation at per diem rates, fixed by the Governor, for each day going to and from and for each day in actual attendance at meetings of the Board and at such other meetings or conferences as may be authorized by the Board. Each member shall also be reimbursed for his expenses in going to and from such meetings in accordance with State travel regulations.

Sec. 9. Board Meetings. Members of the Board shall meet in Juneau during the month of April, 1959, or as soon thereafter as practical and shall organize by electing from their membership a chairman and by adopting a set of by-

laws to govern the conduct of their business. One regular meeting shall be held annually by the said Board at the capital, and one or more additional meetings at such times and places within Alaska as the said Board shall select for the transaction of business. The Board shall maintain its office at the principal office of the Department.

Sec. 10. Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business, for the performance of any duty, and for the exercise of any power; provided, however, a majority of the full Board membership of eight members shall be required to carry all motions, regulations and resolutions.

Sec. 11. Powers and Duties of the Commissioner. The Commissioner shall have, but not by way of limitation, the following powers and duties:

(a) Assist the U. S. Fish and Wildlife Service in the enforcement of federal laws and regulations pertaining to fish and game;

(b) Through the appropriate state agency, acquire by gift, purchase, or lease, and by other lawful means at his disposal, lands, buildings, water, rights-of-way, or other necessary or proper real or personal property where to do so would be in the interest of furthering any of the objectives or purposes of the Department and Alaska;

(c) Design and construct hatcheries, pipe lines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the State;

(d) Accept money from any person under conditions requiring the use of such money for specific purposes in the furtherance of the protection, rehabilitation, propagation, preservation, or investigation of the fish and game resources of the State or in settlement of any claims for damages to such fish or game resources;

(e) Collect, classify, and disseminate such statistics, data and information as in his discretion will tend to promote the objects of this Act;

(f) Capture, propagate, transport,

buy, sell, or exchange any species of fish or game or eggs needed for propagating, scientific or stocking purposes;

(g) Procure insurance, in addition to workmen's compensation insurance, for employees within the Department of Fish and Game against the injury or death occasioned by special hazards in connection with their duties;

(h) Provide public facilities where necessary or proper to facilitate the taking of fish or game, and enter into cooperative agreements—with any person to effect the foregoing.

Sec. 12. Emergency Openings and Closures. Nothing in this Act shall limit the power of the Commissioner or his authorized designee, when circumstances so require, to summarily open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency orders which shall have the force and effect of law after field announcement by the said Commissioner or his authorized designee.

Sec. 13. Rules and Regulations as Evidence. Rules and regulations of the Board, and of the Commissioner, including emergency openings and closures as above defined, shall be admitted as evidence in the courts of the State in accord with the Administrative Procedures Act.

Sec. 14. Limitation of Power. Nothing in this Act shall be construed to authorize the Department or the Board to change the amount of fees or licenses.

Sec. 15. Organization of the Department. The Commissioner may, with the approval of the Governor, establish a departmental Division of Commercial Fisheries, a departmental Division of Sport Fisheries, a departmental Division of Game, and such other departmental divisions as may be necessary.

Sec. 16. Ineligibility for Bounties. It shall be unlawful for any employee or special hunter of the Department to receive or attempt to receive any bounty for the killing of any predator, or to transfer the scalp or other part of any predator to another person for the purpose of collecting any bounty.

Sec. 17. Fish and Game Fund Established. There is hereby created a revolving

“Fish and Game Fund”, which shall be used exclusively (1) to carry out the purposes and provisions of this Act or any other duties that hereafter may be delegated by the State Legislature to the Commissioner or the Department; and (2) to carry out such purposes and objectives within the scope of the Act as may be directed by the donor of any such funds.

Said fund shall be made up of the following moneys and such other moneys as the Legislature may appropriate, which shall be deposited and retained therein until expended as hereinafter provided:

(a) All moneys received from the sale of State sport fishing and hunting licenses and special permits;

(b) Proceeds received from the sale of furs, skins and specimens taken by predator hunters and other employees;

(c) All moneys received in settlement of any claim or losses caused by damages to the fish and game resources of the State;

(d) All moneys received from Federal, State, or any other governmental unit, or private donor for fish and game purposes;

(e) Interest earned upon any moneys in the fund;

(f) Moneys from any other sources.

Upon authorization of the Commissioner, disbursements from the fund shall be paid by the proper State officer on presentation of vouchers signed by the Commissioner, or his duly authorized representative, and approved by the proper State officer.

The fund created by this section shall succeed to the moneys presently in the existing fund created by Section 18, Chapter 63, SLA 1957. It is the intent of this section to avoid the closing out of the old fund.

Sec. 18. Diversion of Funds Prohibited. No funds accruing to the State from sport fishing and hunting licenses or permit fees shall be diverted to any other purpose than the protection, pro-

pagation, investigation, and restoration of sport fish and game resources and the expenses of administering of the sport fish and game divisions of the Department.

Sec. 19. Transfer of Property and Funds. All appropriations, property and funds under the control of the Alaska Fish and Game Commission and the Alaska Department of Fish and Game shall be and hereby are transferred to and placed under control of the Commissioner and Department herein created.

Sec. 20. Assent to Provisions of Federal Aid Acts. The State assents to the provisions of the Federal Aid to Wildlife Restoration Act of September 2, 1937 (16 U.S.C.A., Sec. 669-669(j)), to the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C.A., Sec. 777-777(k)), to any amendments, revisions or modifications of either Federal Act, and to any other Federal Aid Act which may hereinafter be enacted to benefit Alaska thereunder. It is desired that the Department participate in any and all of the Federal Aid programs on the same basis as the other states.

Sec. 21. Enforcement Authority. This Act shall be enforced by the following persons who are hereby declared peace officers of the State:

- (a) Any employee of the Department duly authorized by the Commissioner;
- (b) Any police officer in the State;
- (c) Any other person duly authorized by the Commissioner.

It shall be the duty of any of the named persons to arrest any person committing a violation of this Act, or any rule or regulation made under authority of this Act, in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction.

He shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this Act; and he shall have authority, with a search warrant, to search any

place at any time. The several judges of the courts having jurisdiction may, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

Sec. 22. Power to Search Without Warrant. Any of the named persons may search without warrant any thing or place so long as the search is reasonable or is not protected from searches and seizures without warrant within the meaning of Article I, Section 14, of the State Constitution, which specifically enumerates "persons, houses and other property, papers and effects." However, before any such search is made a signed written statement by the person making such search shall be submitted to the person in control of the property of objects to be searched, and the reason such search is being conducted. A written receipt shall be given by the person conducting the search for any property which is taken as a result of the search. The enumeration of specific things shall not limit the meaning of words of a general nature in this section.

Sec. 23. Seizure Without Warrant and Confiscation by Court. All guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of this Act, or rule or regulation of the Department, may be seized, pursuant to any valid search, and all fish and game, or parts thereof, or nests or eggs of birds, taken, transported, or possessed contrary to the provisions of this Act, or rule or regulation of the Department, shall be seized by any person authorized to enforce this Act. Upon conviction of the offender or upon judgment of the court having jurisdiction that the same was taken, transported, or possessed in violation of this Act or rule or regulation of the Department, all fish and game, or parts thereof, shall be forfeited to the State and disposed of as directed by such court, and if sold, the proceeds of the sale shall be transmitted to the proper State officer for deposit in the General Fund. All guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under provisions of this Act, or rule or regulation of the Department, unless forfeited by order of the court, shall be returned, after com-

pletion of the case and the fines, if any, have been paid.

Sec. 24. Power to Administer Oaths, Etc. Persons authorized to enforce this Act are hereby authorized and empowered to administer to or take from any person, an oath, affirmation, or affidavit when such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of this Act.

Sec. 25. Public Nuisances. All nets, seines, lanterns, snares, devices, contrivances, and materials while in use, had and maintained, for the purpose of catching, taking, killing, attracting, or decoying any fish or game, contrary to law or rule or regulation of the Department, are public nuisances and subject to abatement as such.

Sec. 26. Burden of Proof. The possession of any fish or game or parts thereof, or any nest or egg of any bird during the time the taking of it is prohibited, shall, in any action, constitute prima facie evidence that it was taken, possessed, bought, sold or transported in violation of the provisions of this Act, and the burden of proof shall be upon the possessor or claimant of it to overcome the presumption of illegal possession and to establish the fact that it was obtained and is possessed lawfully; provided, however, that the burden of proof and the rule of prima facie evidence set forth in the first part of this section shall not obtain (a) during the first full ten days after the time when any taking is prohibited, or (b) if the fish or game or parts thereof are found to be in a preserved condition, whether frozen, smoked, canned, salted, pickled or otherwise.

Sec. 27. Wanton Waste. It shall be unlawful for any person wantonly to waste or unnecessarily destroy any fish or game taken or caught in the waters or on the land of the State of Alaska; provided, however, that this shall not apply to fish or game which the Department declares by regulation to be of a destructive, noxious or nuisance character.

Sec. 28. Certain Acts Made Unlawful. Unless and except as permitted by this

Act or by regulations made pursuant to this Act, it shall be unlawful for any person to take, possess, transport, sell, offer to sell, purchase, or offer to purchase any fish or game, or any part thereof, or any nest or egg of any fish or game; and, no person shall knowingly disturb, injure, or destroy any notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building or other improvement or property of the Department used in the administration or enforcement of the provisions of this Act, or any poster or notice to the public concerning the provisions of this Act, or any regulation adopted pursuant hereto, or any marker indicating the boundary of any area closed to hunting, trapping, fishing or other special use under the provisions of this Act, or shall knowingly destroy, remove, tamper with, or imitate any seal or tag issued or used by the Department or attached under its authority to any skin, portion, or specimen of fish or game, or other article for purposes of identification or authentication in accordance with the provisions of this Act or any regulations adopted hereunder; provided, that nothing in this Act shall be construed to prevent the collection or exportation of such fish and game, parts thereof or nests or eggs of birds for scientific or educational purposes, or of like fish and game, eggs or birds for propagation or exhibition purposes under a permit which the Department is hereby authorized to issue and prescribe the terms thereof; provided, further, that nothing in this Act shall prohibit any person from taking fish or game during the closed season, in case of dire emergency, for food. Nothing in this section shall be construed to prohibit rearing and sale of fish from private ponds or the raising of wild animals in captivity for food or fur purposes under regulations promulgated by the Board.

Sec. 29. Research by the Federal Government. The Secretary of the Interior or the Secretary of Agriculture of the United States and their duly authorized agents may conduct fish cultural operations and scientific investigations in this State in such manner and at such times as may be jointly considered necessary or proper by the Board and said Secretary and their duly authorized agents.

Sec. 30. Fishways or Hatcheries Required. Every dam or other obstruction built by any person across any stream frequented by salmon or other fish shall be provided by such person with a durable and efficient fishway and a device for efficient passage for downstream migrants if deemed necessary by the Commissioner, which fishway or device or both shall be maintained in a practical and effective manner in such place, form and capacity as the Commissioner may approve, for which plans and specifications shall be approved by the Department upon application to it, and which shall be kept open, unobstructed, and supplied with a sufficient quantity of water to freely admit the passage of fish through same.

In the event that a fishway over any dam or obstruction is considered by the Commissioner to be impracticable because of cost, then the owner of such dam or obstruction, in order to compensate for the loss resulting from such dam or obstruction shall, at his option: (1) pay a lump sum acceptable to the Commissioner to the State Fish and Game Fund; (2) convey to the State a site of a size satisfactory to the Commissioner at such place as may be mutually satisfactory to both parties, and erect thereon a fish hatchery, rearing ponds, necessary buildings and other facilities according to plans and specifications to be furnished by the Commissioner, secured by good and sufficient bond, to furnish all water and lights and necessary sums of money to operate and maintain said hatchery and rearing ponds; or (3) enter into an agreement with the Commissioner, secured by good and sufficient bond, to pay to the Alaska Fish and Game Fund such initial money and make such annual payments of additional money as the Commissioner may determine are necessary to expand, maintain, and operate additional facilities at existing hatcheries within a reasonable distance of such dam or obstruction.

The owner of any dam or obstruction who shall fail to comply with the provisions of this section within a reasonable time as specified by written notice from the Commissioner shall be guilty of a misdemeanor, punishable by a fine

not to exceed \$1,000.00, and each day that the owner fails to comply shall constitute a separate offense.

In addition to the penalty above provided, if any such person be convicted of violating any of the provisions of this section, the dam or other obstruction managed, controlled or owned by such person is hereby declared a public nuisance and shall be subject to abatement as such.

Sec. 31. Protection of Fish and Game. In the event that any person or governmental agency desires to construct any form of hydraulic project or to use any equipment that will use, divert, obstruct, pollute or change the natural flow or bed of any river, lake or stream or that will utilize any of the waters of the State or materials from any river, lake or stream beds, such person or governmental agency shall notify the Commissioner of such intention prior to the commencement of construction, and the Commissioner shall acknowledge receipt of such notice by return mail. If the Commissioner so determines, he shall, in said letter of acknowledgment, require such person or governmental agency or submit to him full plans and specifications of the proposed construction or work, complete plans and specifications for the proper protection of fish and game in connection therewith, and the approximate date when such construction or work is to commence, and shall require such person or governmental agency to obtain the written approval of the Commissioner as to the sufficiency of such plans or specifications before construction is commenced. If any person or governmental agency commences construction on any such works or projects without first providing plans and specifications subject to the approval of the Commissioner for the proper protection of fish and game in connection therewith and without first having obtained written approval of the Commissioner as to the adequacy of such plans and specifications submitted for the protection of fish and game, he is guilty of a misdemeanor. If any such person or government agency be convicted of violating any of the provisions of this section and continues construction on any such work or projects without ful-

ly complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such. The cost of restoring any river, lake or stream to its original condition shall be borne by the violator and shall be in addition to any penalty imposed by the court.

Provided, that in case of an emergency arising from weather or stream flow conditions, the Department, through its authorized representatives, shall issue oral permits to a riparian owner for removing any obstructions or for repairing existing structures without the necessity of submitting prepared plans and specifications.

Sec. 32. Assumption of Administration and Management by Alaska. Upon assumption of administration and management of the fish and game resources of Alaska by the State, the Commissioner and Board shall assume their respective controls on behalf of the State of Alaska.

Sec. 33. Violations: Misdemeanor: Penalty. Any person violating any of the provisions of this Act or any rule or regulation promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Article II or Article III of this Act, whichever is applicable as determined by the nature of the offense.

Sec. 34. Continuation of Regulations, Agreements, Employees, Etc. All rules, regulations, procedures, policies; funds, contracts, agreements; employees' positions, accounts, assets, liabilities, and benefit conditions and amounts, whether vested or contingent, established in any manner under any Act repealed by the provisions of this Act are hereby continued except where inconsistent with the provisions of this Act. Division heads, together with all employees shall continue in their respective positions at the pleasure of and until removed by the Commissioner created herein, or his designee.

Sec. 35. Intent and Application of Article. It is the purpose of this Article to further implement the provisions of the State Organization Act of 1959 relating to fish and game. However, in the

event the provisions of Sec. 6 and Sec. 7 of this Article are found to be in conflict with the provisions of the State Organization Act of 1959, then the provisions of Sec. 6 and Sec. 7 of this Article shall prevail to the extent of the conflict.

Sec. 36. Effective Date. This Article shall be effective from and after April 1, 1959, provided, however, that any part or parts thereof which conflict with Federal control shall take effect upon cessation of said Federal control.

Article II

Licensing of Sport Fishing, Hunting, Etc.

Section 1. Licenses and Tags Required. It shall be unlawful, except as otherwise permitted in this Act, for any person to engage in sport fishing including the taking of razor clams, hunting, trapping, guiding, fur dealing, fish, fur, or game farming, or taxidermy, without having first procured the appropriate licenses or tags as hereinafter provided, and without having such licenses or tags in his actual possession.

Sec. 2. License and Tag Fees.

- | | |
|--|---------|
| (1) Resident sport fishing license | \$ 5.00 |
| (2) Resident hunting license .. | 7.00 |
| (3) Resident hunting and trapping license | 10.00 |
| (4) Resident hunting & sport fishing license | 12.00 |
| (5) Resident hunting, trapping & sport fishing license | 15.00 |

Provided, however, that the above license may be obtained by the head of any family or one solely dependent upon himself for support for a fee of \$.25 upon proof presented by the applicant that the applicant (1) is obtaining or has obtained during the immediately preceding six months, assistance under any state or federal welfare program to aid the indigent, or (2) has an annual income of less than \$800.00 for the year im-

mediately preceding application, or (3) has historically been dependent on fish and game for subsistence.

- (6) Visitor's special sport fishing license—valid only for ten (10) days after date of issuance\$ 5.00
- (7) Non-resident and alien sport fishing license 10.00
- (8) Non-resident and alien hunting license 50.00
- (9) Non-resident and alien hunting and sport fishing license 60.00

Providing that non-residents or aliens may not take big game animals without previously purchasing appropriate tags as provided for hereinafter, and which must be affixed to the animal immediately upon taking and remain affixed until the animal is prepared for storage, consumed or exported.

- (10) Non-resident and alien hunting and trapping license100.00
- (11) Registered guide license .. 50.00
- (12) Assistant guide license 25.00

Provided that no guide or assistant guide licenses may be issued by the Commissioner until rules and regulations governing guide qualifications and examinations, and the general conduct of guiding activities in the State are formulated.

- (13) Resident fur dealer & taxidermy license\$20.00
- (14) Non-resident and alien fur dealer license100.00
- (15) Fish, fur or game farming license 5.00

- (16) Non-resident and alien big game tags:

Brown or grizzly bear	25.00
Polar bear	150.00
Black bear, deer	10.00
Bison, moose, sheep	50.00
Walrus	100.00
Elk, goats, caribou..Each..	25.00

Provided that the Commissioner may issue to any person without cost permits to collect fish and game, subject to such limitations and provisions as he deems appropriate, for scientific or educational purposes.

Sec. 3. Expiration of Licenses and Tags. All licenses and tags required under this Article, except the visitor's special sport fishing license, shall expire at the close of the 31st day of December following issuance.

Sec. 4. Commissioner Charged with License Issuance. Licenses and tags herein required shall be issued to any qualified person by the Commissioner or his duly authorized deputies pursuant to written applications containing such reasonable information as the Commissioner may require. The Commissioner shall designate the license and tag forms or types which shall be sufficient to identify and locate the applicant and establish his status as to residency and citizenship. Each application shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths of the State.

The Commissioner may require reports to be made by licensees, concerning the time, manner, and place of taking fish and game, the kinds and quantity taken, and such other information as may be helpful in administering the fish and game resources of the State.

Sec. 5. Commissioner May Appoint Agents. The Commissioner is hereby authorized to appoint State employees, or other persons to take applications, issue licenses and tags, and collect fees;

provided, however, that the Commissioner shall not be liable for defalcation or failure to account for the fees so collected by any such agent, but shall require a bond in such sum as he may deem adequate, conditioned upon faithfully accounting for all monies collected. All persons, upon appointment by the Commissioner, as authorized in this section, shall have the authority to administer oaths on applications for licenses and tags.

Sec. 6. Fee for Issuance of Licenses and Tags. Any person, except salaried employees of the State, appointed and authorized by the Commissioner to sell licenses and tags, shall retain the sum of twenty-five cents (25c) from the fee for the issuance of each license or tag.

Subject to withholding of any compensation herein authorized, each person selling licenses or tags shall, as soon as practicable after the last day of each calendar month, transmit the proceeds from such sales, together with a report thereof, to the Commissioner for deposit into the Fish and Game Fund or the General Fund, as the case may be.

Sec. 7. Violations. Any false statement as to any material fact in an application for license shall render null and void the license issued upon it; and any person who shall make any false statement in such an application shall be guilty of a violation of this Act.

Any person who shall alter, change, loan or transfer to another person any license or tag issued to him pursuant to this Act, or any person who shall use any license or tag other than the one issued to him, shall be guilty of a violation of this Act.

Failure to report promptly to regulatory authorities any violations of this Act within his knowledge or of any fish or game laws or regulations of the department, shall make any licensed guide or assistant guide guilty of a violation of this Act. Provided further, that any licensed guide or assistant guide who aids or abets the commission of any violation of this Act or the rules and regulations promulgated thereunder or who suffers or permits the commission of any such violations in his presence or

view, shall be guilty of a violation of this Act.

Sec. 8. License Forfeiture. Upon conviction of a person of a first violation of any provision of this Act or of any Federal or State law or regulation for the protection of the fish and game of Alaska, the Court may, in addition to the penalty imposed by law, forfeit the license of such person. Upon subsequent conviction of any such person of any violation of any provisions of this Act or of any Federal or State law or regulation for the protection of the fish and game of Alaska, the forfeiture of such license for a period of not less than two or more than three years shall be mandatory; provided further that any licensed guide or assistant guide upon conviction of any provision of any Federal or State law or regulation for the protection of the fish or game of Alaska shall have his license revoked and shall not be eligible for a guide or assistant guide license for a period of five years from the date of revocation.

Sec. 9. Exemptions. No license shall be required of any resident or non-resident person under the age of sixteen for the purpose of sport fishing, nor shall a license be required of any resident under the age of sixteen for hunting or trapping.

Sec. 10. Penalties. Any person who violates any provision of this Article is guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25.00 nor more than \$1,000.00 or be imprisoned not more than six months, or both.

All monies from fines shall be transmitted by the court to the proper State officer for deposit in the General Fund of the State.

Sec. 11. Effective Date. This Article shall be effective from and after July 1, 1959; provided, however, that any part or parts thereof, which conflict with federal control, shall take effect upon cessation of such federal control.

Article III

Licensing of Commercial Fishermen, Vessels & Gear

Section 1. Qualifications for Licenses.

No license provided for in this Article shall be issued to any individual unless he is a citizen of the United States, or unless he has a petition for citizenship pending before a U. S. District Court.

Sec. 2. Expiration Date for Licenses. All licenses required under the provisions of this Article shall expire at the close of the thirty-first day of December following their issuance, and shall be renewed annually thereafter upon application and payment of license fees required by this Article.

Sec. 3. Issuance of Licenses. Licenses herein required shall be issued to any qualified person by the Commissioner or his duly authorized deputies, pursuant to written application accompanied by the required fee and containing such reasonable information as may be required by the Commissioner. Such applications shall be simple in form and be executed by applicants or their respective agents under the penalties of perjury.

Sec. 4. Commissioner May Appoint Deputies. The Commissioner is hereby authorized to appoint qualified persons as his deputies to take applications, issue the licenses and collect license fees under this Article.

Sec. 5. Fee for Issuance of Licenses. Any person, except salaried employees of the State, appointed and authorized by the Commissioner to sell licenses under this Article shall retain the sum of 5 per cent of the fee for the issuance of each license. These deputies shall monthly transmit to the Commissioner all fees collected by them less their authorized commissions, together with a full account of same. The Commissioner shall make monthly remittances of the fees collected to the proper state official. The Commissioner shall not be liable for defalcation or failure to account for the fees so collected by any such deputy, but shall require a bond in such sum as he may deem adequate, conditioned upon faithfully accounting for all moneys collected hereunder.

Sec. 6. Commercial Fishing License. A commercial fishing license shall be obtained by each and every individual before he shall become engaged as a

fisherman as above defined. The fee for such license shall be \$10.00 for residents, and \$15.00 for non-residents.

Sec. 7. Vessel License. A license is required for each and every commercial vessel which delivers or lands fish or engages in commercial fishing within the State, and shall include each and every vessel used in charter service for the recreational taking of fish and shellfish. The vessel license shall include a permanent number plate. The number plate shall be accompanied by a tab affixed to it designating the year to be fished.

Number plates are not transferable, and shall be considered a permanent fixture upon the vessel upon which they are originally placed. They shall be securely fastened well forward on the port side in plain sight. On vessels with a superstructure the plates shall be fastened on the port side of the superstructure.

Upon an annual payment of a license fee of \$10.00 for residents and \$30.00 for non-residents, provided, however, that vessels classified as less than one unit by the Board shall be licensed at \$5.00 for residents and \$15.00 for non-residents, and provided further, that such vessels classified as less than ½ units shall be licensed at \$3.00 for residents and \$8.00 for non-residents, and filing of the name and address of the owner and operator of the vessel, the name and number of the vessel, a description of the vessel and fishing gear, vessel license number, if any, areas to be fished, and such other reasonable information as may be required by the Department, a number plate and a vessel license shall be issued by the Department; provided, however, that if the vessel already possesses said number plate, a vessel license and tab designating year shall be issued. The tab shall be placed in the space provided on the permanent number plate.

Number plates shall remain the property of the State. If such permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall immediately make application for and may obtain a duplicate, upon furnishing the Department with the pertinent facts and a payment of two dollars (\$2.00).

If a vessel carrying number plates is lost, destroyed or sold, the owner shall immediately report the loss, destruction or sale to the Department.

Sec. 8. Fishing Gear Licenses.

(a) Troll Line License. A license is required for troll lines used in the taking or catching of fish for commercial purposes in the waters of the State, for which license there shall be paid a fee of \$15.00 per annum by residents and \$45.00 per annum by non-residents.

For the purposes of this Act, a hand line, jigger line, or a line that is used with a rod and reel shall also be construed as a troll line when it is used in the taking or catching of fish for commercial purposes in the waters of the State.

(b) Set or Long Line License. A license is required for set or long lines used in the taking or catching of fish for commercial purposes in the waters of the State, for which license there shall be paid a fee of \$25.00 per annum by residents and \$50.00 by non-residents.

(c) Drift Gill Net License. A license is required for drift gill nets used in the taking or catching of fish for commercial purposes in the waters of the State, for which such license there shall be paid a fee of \$10.00 for the first 100 fathoms and \$5.00 for each additional 50 fathoms or fraction thereof per annum by residents and \$30.00 for the first 100 fathoms and \$15.00 for each additional 50 fathoms or fraction thereof per annum by non-residents, provided only the maximum amount of gear fished at one time is licensed, and that the gear for each vessel must be separately licensed.

(d) Set or Stake Gill Net License. A license is required for each and every set or stake gill net used in the taking or catching of fish for commercial purposes in the waters of the State, for which such license there shall be paid a fee of \$5.00 for the first 50 fathoms and \$5.00 for each additional 50 fathoms or fraction thereof per annum by residents and \$15.00 for the first 50 fathoms and \$15.00 for each additional 50 fathoms or fraction thereof per annum by non-resi-

dents, provided only the maximum amount of gear fished at one time is licensed.

(e) Beach or Drag Seine License. A license is required for each and every beach or drag seine used in the taking or catching of fish for commercial purposes in the waters of the State, for which license there shall be paid a fee of \$10.00 for the first 100 fathoms and \$5.00 for each additional 50 fathoms or fraction thereof per annum by residents and \$30.00 for the first 100 fathoms and \$15.00 for each additional 50 fathoms or fraction thereof per annum by non-residents.

(f) Purse Seine License. A license is required for each and every purse seine used in the taking or catching of fish for commercial purposes in the waters of the State, for which license there shall be paid a fee of \$40.00 for the first 100 fathoms and \$10.00 for each additional 50 fathoms or fraction thereof per annum by residents and \$120.00 for the first 100 fathoms and \$30.00 for each additional 50 fathoms or fraction thereof per annum by non-residents.

(g) Beam Trawl License. A license is required for beam trawls used in the taking or catching of fish or shellfish for commercial purposes in the waters of the State, for which license there shall be paid a fee of \$37.50 per annum by residents and \$100.00 per annum by non-residents.

(h) Otter Trawl License. A license is required for otter trawls used in the taking or catching of fish or shellfish for commercial purposes in the waters of the State, for which license there shall be paid a fee of \$50.00 per annum by residents and \$150.00 per annum by non-residents.

(i) Shellfish Pot License. A license shall be required for shellfish pots used in the taking or catching of shellfish for commercial purposes in the waters of the State. For each 100 pots or less there shall be paid a fee of \$15.00 per annum by residents and \$45.00 per annum by non-residents and for each additional 100 pots or less there shall be paid a fee of \$15.00 per annum by residents and \$45.00 per annum by non-residents.

(j) Clam Digger's License. A clam digger's license shall be required of any person digging clams for commercial purposes from the waters or beaches of the State. The fee for such license shall be \$5.00 for residents, and \$15.00 for non-residents.

Sec. 9. License Possession Requirements. The commercial fishing license shall be carried on the individual whenever such individual is engaged as a fisherman as above defined.

All fishing gear licenses issued under the provisions of this Article shall be non-transferable, and it shall be unlawful for any gear which is licensed as herein specified to be operated or caused to be operated by any person other than the licensee or agent or employee of the licensee. In the event the operator of the gear is non-resident, the gear shall be required to be licensed as non-resident gear and the fees provided for non-residents shall be paid for such license, provided that, for the purposes of this Act, the "operator" shall mean the individual by law made responsible for the operation of the vessel. All licenses for fishing gear issued under the provisions of this Act shall be carried in the possession of the licensee or authorized representative of the licensee who shall be in charge of the operation of such gear.

Sec. 10. Unlawful Purchases: Records Required. It shall be unlawful for any person, or for the agent or representative of any person, to have in his employ any fisherman who is not duly licensed under Section 6 of this Article or to purchase fish from any fisherman who is not so licensed. Each buyer of the fish shall keep a record of each purchase showing name or number of vessel from which the catch involved is taken, date of landing, vessel license number, pounds purchased of each species, number of each species, where possible, statistical area in which the fish were taken, and such other information as the Department may require. Such records may be kept on forms provided by the Department, but must be kept in any event, and each person charged with keeping such records must report same to the Department in accordance with rules and regulations promulgated by it. Anyone violating any of the provisions of this

section shall be guilty of a misdemeanor, and upon conviction, punishable under the penalty clause of this Act.

Sec. 11. License Forfeiture. Upon both first and second convictions of a person for a violation of any provision of this Article or of any Federal or State law or regulation for the protection of the commercial fish of Alaska, the Court may, in addition to the penalty imposed by law, forfeit the commercial fishing license of such person for a period of one year. Upon a third conviction of any such person of any such violation, the forfeiture of such license for a period of not more than three years shall be mandatory.

Sec. 12. Penalties. Any person who violated any provision of this Article or the rules and regulations pertaining to commercial fisheries, is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not exceeding \$5,000.00 or imprisonment not to exceed one year or both such fine and imprisonment.

All monies from fines shall be transmitted by the Court to the proper state officer for deposit in the General Fund of the State.

Sec. 13. Effective Date. This Article shall be effective from and after January 1, 1960; provided, however, that any part or parts thereof, which conflict with federal control, shall take effect upon cessation of such federal control.

Article IV

Repeal Schedule and Effective Date

Section 1. Repeal Schedule. Chapter 63, SLA 1957; Chapter 122, SLA 1957; Chapter 98, SLA 1955; Chapter 67, SLA 1953; Chapter 6, SLA 1951; Chapter 66, SLA 1949; Section 35-1-11, Subsection 7 (i), (j), ACLA 1949; those portions of Sections 191 through 250p, 48 U.S.C.A. which constitute "Territorial laws" under Section 8 (d) of Public Law 85-508, 72 Stat. 345, and all acts or parts of acts in conflict with the provisions of this Act, are hereby repealed, provided, however, that this repeal shall not be so construed as to prevent the adoption by regulation of any section or sections, part or parts, of the acts herein repealed

so long as such regulations are consistent with existing law and with the State Constitution.

Sec. 2. If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word to other persons and

circumstances shall not be affected thereby.

Sec. 3. **Effective Date.** This Act shall be effective from and after April 1, 1959, provided, however, that Article II shall be effective from and after July 1, 1959; Article III shall be effective from and after January 1, 1960; provided, however, that any part or parts of this Act which conflict with Federal control shall take effect upon cessation of such federal control.

Approved April 17, 1959

CHAPTER 95

AN ACT

Prohibiting the operating of fish traps within the State of Alaska; amending Chapter 17, SLA 1959; prescribing penalties; and providing an effective date.

(H.C.S.S.B. 132)

Be it enacted by the Legislature of the State of Alaska:

Section 1. It shall be unlawful to operate fish traps, including but not limited to floating, pile-driven or hand-driven fish traps, in the State of Alaska on or over any of its lands, tidelands, submerged lands, or waters; provided nothing in this section shall prevent the operation of small hand-driven fish traps of the type ordinarily used on rivers of Alaska which are otherwise legally operated in or above the mouth of any stream or river in Alaska; nor shall this Act be construed so as to violate Sec. 4 of Public Law 85-508, 72 Stat. 339, which constitutes a compact between the United States and Alaska, pursuant to which the State disclaims all right and title to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called Natives) or is held by the United States in trust for said Natives.

Sec. 2. Section 1 of Chapter 17, SLA 1959, is hereby amended to read as follows:

Section 1. It shall be unlawful to erect, moor, or maintain fish traps, including but not limited to floating, pile-driven or hand-driven fish traps,

on or over any lands, tidelands, submerged lands or waters owned or hereafter acquired by the State of Alaska. Nothing in this section shall prevent the maintenance, use or operation of small, hand-driven fish traps of the type ordinarily used on rivers of Alaska which are otherwise legally maintained and operated in or above the mouth of any stream or river in Alaska.

Sec. 3. Sec. 2 of Chapter 17, SLA 1959, is hereby repealed.

Sec. 4. Sec. 3 of Chapter 17, SLA 1959, is hereby amended to read as follows:

Sec. 3. A violation of this Act shall be a misdemeanor and shall be punishable by imprisonment not to exceed one year or by fine not to exceed \$5,000.00 or by both such imprisonment and fine.

Sec. 5. A violation of this Act shall be a misdemeanor and shall be punishable by imprisonment not to exceed one year, or by a fine not to exceed \$5,000.00, or by both such imprisonment and fine.

Sec. 6. This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved April 17, 1959