



LAWS OF ALASKA

1975

Source

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Chapter No.

206

AN ACT

Relating to the boards of fisheries and game; and providing for an effective date.

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

* Section 1. AS 16.05.070 is amended to read:

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

* Sec. 2. AS 16.05.080 is amended to read:

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

* Sec. 3. AS 16.05 is amended by adding new sections to read:

ARTICLE 2. BOARDS OF FISHERIES AND GAME.

Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes of the conservation and development of the fishery resources of the state, there is created the Board of Fisheries composed of seven members appointed by the governor. The appointed members shall be residents of the state and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Fisheries, but shall be ex officio secretary.

(b) For purposes of the conservation and development of the game resources of the state, there is created a Board of Game composed of seven members appointed by the governor.

The appointed members shall be residents of the state, and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Game, but shall be ex officio secretary.

Sec. 16.05.241. POWERS EXCLUDED. The boards have regulation-making powers as set out in this chapter, but do not have administrative, budgeting or fiscal powers.

Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES. The Board of Fisheries may make regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

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

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

(3) setting quotas and bag limits on the taking of fish;

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

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

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

(7) engaging in biological research, watershed and habitat improvement, fish management, protection, propagation and stocking;

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

(9) entering into cooperative agreements with educational institutions and state, federal, or other agencies to promote fish research, management, education and information and to train men for fish management;

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

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

(12) establishment of 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

ch. 43 of this title.

Sec. 16.05.255. REGULATIONS OF THE BOARD OF GAME. The Board of Game may make regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

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

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

(3) establishment of the means and methods employed in the pursuit, capture and transport of game;

(4) setting quotas and bag limits on the taking of game;

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

(6) investigating and determining the extent and effect of predation and competition among game in the state, exercising control measures considered necessary to the resources of the state and designating game management units or parts of game management units in which bounties for predatory animals shall be paid;

(7) engaging in biological research, watershed and habitat improvement, and game management, protection, propagation and stocking;

(8) entering into cooperative agreements with educational institutions and state, federal, or other agencies to promote game research, management, education, and information and to train men for game management;

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

(10) 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.

* Sec. 4. AS 16.05.260 is repealed and re-enacted to read:

Sec. 16.05.260. ADVISORY COMMITTEES. The Board of Fisheries and the Board of Game may make regulations they consider advisable in accordance with the Administrative Procedure Act (AS 44.62) establishing, at places in the state designated by the individual boards, advisory committees to be composed of persons well informed on the fish or game resources of the locality. The boards shall set the number and terms of each of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall give him authority to hold public

hearings on fish or game matters. Recommendations from the advisory committees shall be forwarded to the appropriate board for their consideration but if the Board of Fisheries or the Board of Game chooses not to follow the recommendations of the local advisory committee the appropriate board shall inform the appropriate advisory committee of this action and state the reasons for not following the recommendations. The commissioner shall delegate authority to advisory committees for emergency closures during established seasons. The commissioner is empowered to set aside and make null and void only opening of seasons set by the advisory committees under this section. The appropriate board shall promulgate the necessary regulations governing these closures.

* Sec. 5. AS 16.05.270 is amended to read:

Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. For the purpose of administering secs. 251 and 255 of this chapter, each board may delegate authority to the commissioner to act in its behalf. If there is a conflict between the board and the commissioner on proposed regulations, public hearings shall be held concerning the issues in question. If, after 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. The decision of the governor is final.

* Sec. 6. AS 16.05.290 is amended to read:

Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of a board is entitled to travel expenses and \$100 per diem for each day going to and from and for each day in actual attendance at board meetings and other meetings or conferences authorized by a board.

* Sec. 7. AS 16.05.300 is amended to read:

Sec. 16.05.300. (a) BOARD MEETINGS. Each board shall hold at least one meeting a year and as many other meetings as it considers necessary. Each board shall select the time and place in the state for the transaction of business. Each board shall maintain its office at the principal office of the department.

(b) In addition, the Board of Fisheries shall hold at least one meeting or hearing a year in each of the following general areas:

- (1) Upper Yukon - Kuskokwim - Arctic
- (2) Western Alaska (including Kodiak)
- (3) Southcentral
- (4) Prince William Sound (including Yakutat)
- (5) Southeast.

* Sec. 8. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.305. CLERICAL ASSISTANCE FOR BOARDS. The Board of Fisheries and the Board of Game are authorized to hire and set the compensation for one clerical assistant for each board.

- * Sec. 9. AS 16.05.310 is amended to read:

Sec. 16.05.310. SPECIAL BOARD MEETINGS. A board may meet at any time upon the call of the commissioner or upon the request of two board members.

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

Sec. 16.05.315. JOINT BOARD MEETINGS. The boards of fisheries and game may hold a joint meeting upon the call of the commissioner or a board to resolve any conflicts in regulations of the boards and to consider matters, as determined by the commissioner or a board, which require the consideration of both boards.

- * Sec. 11. AS 16.05.320 is amended to read:

Sec. 16.05.320. QUORUM. A majority of the members of a board constitutes a quorum for the transaction of business, for the performance of any duty, and for the exercise of any power. However, a majority of the full board membership is required to carry all motions, regulations and resolutions. A majority of the members of the boards of fisheries and game constitutes a quorum for the transaction of business in a joint board meeting. A majority of the membership of the boards is required to carry all joint motions, regulations and resolutions of the boards.

- * Sec. 12. AS 16.05.685(c)(2) is amended to read:

(2) "registration area" means a specific king crab registration area as designated by regulation of the Board of Fisheries and includes the Bering Sea shellfish area and the western Aleutian Islands king crab area.

- * Sec 13. AS 16.05.800 is amended to read:

Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare, device, contrivance, and material while in use, had and maintained for the purpose of catching, taking, killing, attracting, or decoying fish or game, contrary to law or regulation of a board or the commissioner, is a public nuisance and is subject to abatement.

- * Sec. 14. AS 16.05.820 is amended to read:

Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The Secretary of the Interior or the Secretary of Agriculture of the United States and their authorized agents may conduct fish cultural operations and scientific investigations in the state in the manner and at the times jointly considered necessary or proper by the Board of Fisheries and the secretary and their authorized agents.

- * Sec. 15. AS 16.05.825(a) and (d) are amended to read:

(a) In addition to any other program for the stocking or propagation of game birds that the department has as of July 23, 1974, the department shall establish a special program for the raising, maintenance, and release of upland game birds in the state. Birds raised under this program may be released in an appropriate area of the state, at any time, but may be harvested only during regular hunting seasons, as specified by the board under sec. 255(2) of this chapter. The board shall promulgate regulations necessary to implement this section.

(d) In this section, "upland game bird" means a game bird for which a season is established under sec. 255(2) of this chapter as of July 23, 1974, excluding waterfowl.

* Sec. 16. AS 16.05.930(b) is amended to read:

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation promulgated by the appropriate board.

* Sec. 17. AS 16.05.930(c) is amended to read:

(c) Section 920 of this chapter does not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations promulgated by the appropriate board.

* Sec. 18. AS 16.05.940(1) is amended to read:

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

* Sec. 19. AS 16.05.940(16) is amended to read:

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

* Sec. 20. AS 16.05.940(17) is amended to read:

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

* Sec. 21. AS 16.10.190 is amended to read:

Sec. 16.10.190. REGULATIONS. The Board of Fisheries may promulgate regulations to carry out the purposes of secs. 180 - 230 of this chapter defining the adjacent high sea areas, migratory fish and migratory shellfish and to make coastal fishery regulations governing the manner, means, conditions and time for the taking of migratory fish

and migratory shellfish applicable in designated adjacent high sea areas.

- * Sec. 22. AS 16.10.200 is amended to read:

Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. It is unlawful for a person taking migratory fish and migratory shellfish in high sea areas designated by the Board of Fisheries or in violation of the regulations promulgated by the Board of Fisheries governing the taking of migratory fish and migratory shellfish in the designated areas to possess, sell, offer to sell, barter, offer to barter, give or transport in the state, including the waters of the state, migratory fish or migratory shellfish.

- * Sec. 23. AS 16.10.210. is amended to read:

Sec. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. It is unlawful for a person to possess, purchase, offer to purchase, sell, or offer to sell in the state migratory fish or migratory shellfish taken on the high seas knowing that they were taken in violation of a regulation promulgated by the Board of Fisheries governing the taking of migratory fish or migratory shellfish in certain areas designated by the Board of Fisheries or the commissioner.

- * Sec. 24. AS 16.10.440(b) is amended to read:

(b) The Board of Fisheries may promulgate regulations necessary to implement secs. 400 - 470 of this chapter.

- * Sec. 25. AS 16.20.080(1) is amended to read:

(1) "board" means the Board of Game;

- * Sec. 26. AS 16.20.120 is amended to read:

Sec. 16.20.120. AUTHORITY TO ADMINISTER. The boards may adopt regulations governing entry, development, construction, hunting, fishing, and all other uses or activities not in conflict with secs. 130 and 140 of this chapter for the purpose of preserving the natural habitat and the fish and game of the Walrus Islands State Game Sanctuary.

- * Sec. 27. AS 16.20.240 is amended to read:

Sec. 16.20.240. REGULATIONS. The Board of Fisheries and the Board of Game, where appropriate, shall promulgate regulations they consider advisable for conservation and protection purposes governing the taking of fish and game in state fish and game critical habitat areas.

- * Sec. 28. AS 16.20.260 is amended to read:

Sec. 16.20.260. SUBMISSION OF PLANS AND SPECIFICATIONS. When a board so determines, it shall instruct the commissioner, in the letter of acknowledgment, to require the person or governmental agency to submit full plans for the anticipated use, full plans and specifications of proposed construction work, complete plans and specifications for the proper protection of fish and game, and the approximate date when the construction or work is to commence, and

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shall require the person or governmental agency to obtain the written approval of the commissioner as to the sufficiency of the plans or specifications before construction is commenced.

- * Sec. 29. AS 16.35.200 is amended to read:

Sec. 16.35.200. USE OF POISON BY DEPARTMENTS AND OTHER STATE AGENCIES. No department, other state agency or person may use poison to kill predatory animals without first obtaining the written consent of the appropriate board.

- * Sec. 30. AS 16.43.200(a) is amended to read:

(a) The commission shall establish administrative areas suitable for regulating and controlling entry into the commercial fisheries. The commission shall make the administrative areas reasonably compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries.

- * Sec. 31. AS 16.43.350 is amended to read:

Sec. 16.43.350. APPLICATIONS OF REGULATIONS OF BOARD OF FISHERIES. Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries.

- * Sec. 32. AS 16.43.380(8)(A) is amended to read:

(A) those classifications for which separate regulations are adopted by the Board of Fisheries and for which separate gear licenses are required by AS 16.05.550 - 16.05.630; and

- * Sec. 33. AS 16.43.380(9) is amended to read:

(9) "unit of gear" means the maximum amount of a specific type of gear which can be fished under a single gear license subject to regulations established by the Board of Fisheries defining the legal requirements for that type of gear.

- * Sec. 34. AS 39.05.060(a)(5) is amended to read:

(5) Board of Fisheries;

- * Sec. 35. AS 39.05.060(a) is amended by adding a new paragraph to read:

(10) Board of Game.

- * Sec. 36. AS 39.05.060(c) is amended by adding a new paragraph to read:

(6) in the case of seven-member boards, two members serve for one year, two for two years, and three for three years.

- * Sec. 37. AS 44.39.030 is amended to read:

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

- * Sec. 38. AS 44.39.050 is amended to read:

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

- * Sec. 39. AS 44.62.330 is amended by adding new paragraphs to read:

(40) Board of Fisheries

(41) Board of Game

- * Sec. 40. The following laws are repealed: AS 16.05.030; 16.05.220 - 16.05.250; AS 44.62.330(31).

* Sec. 41. All regulations in effect on the effective date of this Act and all regulations adopted by a board before the effective date of this Act remain valid until amended or revoked by the appropriate board. A board member serving on the board on the effective date of this Act may be reappointed to either the Board of Fisheries or the Board of Game for the remainder of his former term or be replaced by another appointee, at the discretion of the governor.

- * Sec. 42. This Act takes effect July 1, 1975.