

CS FOR HOUSE BILL NO. 169(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 5/9/23

Referred: Resources

Sponsor(s): REPRESENTATIVES CRONK, Vance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain fish; and establishing a fisheries rehabilitation permit."**

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

3 * **Section 1.** AS 16.05 is amended by adding a new section to read:

4 **Sec. 16.05.855. Fisheries rehabilitation permit.** (a) Subject to restrictions
5 imposed under this section, the department may issue a fisheries rehabilitation permit
6 that allows a qualified person to

7 (1) remove anadromous or freshwater finfish from water of the state,
8 collect gametes and fertilize and incubate eggs taken from the fish, and place the
9 fertilized or incubated eggs, larvae, or unfed fry in the same water of the state; and

10 (2) enhance habitat in water of the state to aid the survival of the fish.

11 (b) An applicant for a permit under this section shall apply on a form
12 prescribed by the department. The department shall make the application form
13 available on the department's Internet website and at the department's regional and
14 local offices. The department shall charge a fee for printing an application form
15 provided by the department's offices. An application for a permit must include

- 1 (1) the name of the applicant;
- 2 (2) a statement of the reasons for and feasibility of the proposed
3 project using historical and current data relating to habitat, the food web, and fish
4 populations in the project area;
- 5 (3) documentation of
- 6 (A) the conditions justifying the project;
- 7 (B) any communication, or plan for continued communication,
8 from the applicant with affected persons, relevant organizations with
9 applicable expertise, and stakeholders in the project area; and
- 10 (C) any state, local, or federal permits required for the project;
- 11 (4) the location of the water from which the applicant will take fish
12 and place fish eggs;
- 13 (5) the species and number of fish to be taken and, if applicable, the
14 number to be taken for brood stock;
- 15 (6) a management plan that demonstrates the ability of the applicant to
16 carry out and sustain the proposed project, including the applicant's plan for fish
17 propagation or repopulation in permitted water;
- 18 (7) the applicant's goals, schedule, planned duration, performance
19 measures, scope of work, budget, means of collecting data, plan for genetics
20 management, and watershed habitat rehabilitation plan, if applicable, for the project;
21 and
- 22 (8) an application fee of \$100.
- 23 (c) The department may issue a permit under this section if the commissioner
24 determines that the project
- 25 (1) may restore or increase a population of fish in a body of water in
26 which
- 27 (A) subsistence and escapement goals have not been met;
- 28 (B) there are no established escapement goals and local
29 stakeholders have identified a decline in the number of the species of fish; or
- 30 (C) the population of the species of fish is limited;
- 31 (2) will result in public benefits;

- 1 (3) will not harm local wild fish stocks;
- 2 (4) will not place eggs, larvae, or unfed fry in a body of water in which
3 there are sufficient numbers of the same species of fish for natural propagation of the
4 species to occur;
- 5 (5) will not introduce live fertilized eggs, larvae, or fry of
6 nonindigenous fish in violation of AS 16.35.210.
- 7 (d) In reviewing an application submitted under (b) of this section and
8 determining whether the department will issue a permit for a proposed project, the
9 commissioner shall consider
- 10 (1) the department's assessment of the proposed project;
- 11 (2) the capabilities of the applicant;
- 12 (3) the degree to which the applicant has reasonably communicated
13 with affected persons, including relevant organizations with applicable expertise, and
14 stakeholders in the project area;
- 15 (4) if the proposed project is a salmon rehabilitation project, relevant
16 and applicable comments relating to the proposed project submitted by a regional
17 planning team established under AS 16.10.375 for the region that encompasses the
18 project area;
- 19 (5) the consistency of the proposed project with the comprehensive
20 salmon plan developed under AS 16.10.375 for the region that encompasses the
21 project area and with constitutional and statutory requirements and duties imposed on
22 the department; and
- 23 (6) whether the proposed project will increase scientific knowledge
24 and understanding of natural resources affected by the project.
- 25 (e) A permittee shall
- 26 (1) collect and provide project data and reports reasonably requested
27 by the department;
- 28 (2) reasonably communicate with affected persons, including relevant
29 organizations with applicable expertise, and stakeholders in the project area.
- 30 (f) Within 15 days after the department receives an application for a fisheries
31 rehabilitation permit, the commissioner shall notify an applicant that the application is

1 complete or incomplete. The commissioner may reject an application that is not
2 completed within 30 days after the commissioner notifies the applicant that the
3 application is incomplete. Within 90 days after the date the commissioner notifies an
4 applicant that an application is complete, the commissioner shall approve or reject the
5 application.

6 (g) The department shall require a permittee under this section to

7 (1) collect not more than 500,000 eggs for fertilization under a single
8 permit;

9 (2) implement appropriate controls to avoid the introduction of
10 nonindigenous or invasive pathogens or the increase of indigenous pathogens beyond
11 levels acceptable to the department.

12 (h) Fish released into the water of the state under a permit issued under this
13 section are available to the people for common use and are subject to applicable law in
14 the same way as fish occurring in their natural state.

15 (i) A permit issued under this section is valid for five years from the date of
16 issuance and, upon application by the permittee, may be extended by the
17 commissioner.

18 (j) The commissioner may modify, suspend, or revoke a permit issued under
19 this section for cause. If a permittee violates this section, the commissioner may, after
20 providing the permittee notice and an opportunity to be heard, suspend or revoke a
21 permit issued under this section.

22 (k) In this section,

23 (1) "person" means an individual, corporation, business trust, estate,
24 trust, partnership, limited liability company, association, joint venture, tribe, or
25 government; governmental subdivision, agency, or instrumentality; public corporation;
26 or another legal or commercial entity;

27 (2) "qualified person" means a state resident under AS 43.23.295 or a
28 corporation organized under laws of this state;

29 (3) "reasonably communicate" means communicating significant
30 information by a mode of communication likely to provide notice to persons a
31 reasonable person would know are affected by a project or proposed project.

1 * **Sec. 2.** AS 16.05.871 is amended by adding a new subsection to read:

2 (e) In making a finding that the plans and specifications for a proposed
3 construction, work, or use sufficiently protect fish and game under (d) of this section,
4 the commissioner shall consider related fisheries rehabilitation projects under
5 AS 16.05.855.

6 * **Sec. 3.** AS 16.10.375 is amended to read:

7 **Sec. 16.10.375. Regional salmon plans.** The commissioner shall designate
8 regions of the state for the purpose of salmon production and have developed and
9 amend as necessary a comprehensive salmon plan for each region, including
10 provisions for **salmon rehabilitation projects conducted under AS 16.05.855 and**
11 both public and private nonprofit hatchery systems. Subject to plan approval by the
12 commissioner, comprehensive salmon plans shall be developed by regional planning
13 teams consisting of department personnel and representatives of the appropriate
14 qualified regional associations formed under AS 16.10.380.