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Bullard
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SENATE CS FOR CS FOR HOUSE BILL NO. 41(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ORTIZ, Vance, Story

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to management of enhanced stocks of shellfish; authorizing certain**
2 **nonprofit organizations to engage in shellfish enhancement projects; relating to**
3 **application fees for salmon hatchery permits and shellfish enhancement project permits;**
4 **allowing the Alaska Seafood Marketing Institute to market aquatic farm products;**
5 **relating to aquatic farming and hatchery site leases; requiring the director of the**
6 **division of lands to provide the legislature with an annual report relating to aquatic**
7 **farming and hatchery site leases; and providing for an effective date."**

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

9 * **Section 1.** AS 16.05.730(c) is amended to read:

10 (c) The board may

11 **(1)** consider the need of enhancement projects authorized under
12 AS 16.10.400 and contractors who operate state-owned enhancement projects under
13 AS 16.10.480 to harvest and sell fish produced by the enhancement project that are not

1 needed for brood stock to obtain funds for the purposes allowed under AS 16.10.450
2 or 16.10.480(d);

3 **(2) consider the need of projects authorized under AS 16.12.010 to**
4 **harvest and sell shellfish that are not needed for brood stock to obtain funds for**
5 **the purposes allowed under AS 16.12.080;**

6 **(3)** [. THE BOARD MAY] exercise its authority under this title as it
7 considers necessary to direct the department to provide a reasonable harvest of fish, in
8 addition to the fish needed for brood stock, to an enhancement project to obtain funds
9 for the enhancement project if the harvest is consistent with sustained yield of wild
10 fish stocks; **and**

11 **(4)** [. THE BOARD MAY] adopt a fishery management plan to
12 provide fish to an enhancement project to obtain funds for the purposes allowed under
13 AS 16.10.450, [OR] 16.10.480(d), **or AS 16.12.080.**

14 * **Sec. 2.** AS 16.10.400(b) is amended to read:

15 (b) The application for a permit under this section shall be on a form
16 prescribed by the department and be accompanied by an application fee **in the**
17 **amount determined under (h) of this section** [\$100]. The commissioner may waive
18 the submission of an application for a permit to operate a hatchery under
19 AS 16.10.480.

20 * **Sec. 3.** AS 16.10.400 is amended by adding a new subsection to read:

21 (h) The department shall establish by regulation an application fee under this
22 section in an amount that provides for the total amount of fees collected under (b) of
23 this section to approximately equal the department's actual regulatory costs under this
24 chapter. The department shall annually review the fee level to determine whether the
25 department's regulatory costs under this chapter are approximately equal to the fees
26 collected. If the review indicates that fees collected and regulatory costs are not
27 approximately equal, the department shall adjust the application fee by regulation. In
28 January of each year, the department shall report the fee level and any revision made
29 for the previous year under this subsection to the office of management and budget.

30 * **Sec. 4.** AS 16 is amended by adding a new chapter to read:

31 **Chapter 12. Shellfish Enhancement Projects.**

1 **Sec. 16.12.010. Permits for shellfish enhancement projects.** (a) Subject to
2 the restrictions imposed by statute or regulation under this chapter, the commissioner
3 may issue a permit to a nonprofit corporation organized under AS 10.20 for a project
4 to

5 (1) augment the yield and harvest of shellfish indigenous to state water
6 above naturally occurring levels by natural, artificial, or semiartificial production
7 systems;

8 (2) rehabilitate a shellfish stock that is indigenous to state water by
9 restoring it to its natural levels of productivity; or

10 (3) increase the area of productive natural shellfish habitat.

11 (b) Each applicant for a permit under this section shall apply in a format
12 prescribed by the department and pay an application fee in the amount determined
13 under (f) of this section.

14 (c) A permit issued under this section is nontransferable. If a permit holder
15 sells or leases a facility for which a permit has been issued under this section, the new
16 operator shall apply for a permit under this section.

17 (d) The commissioner shall consult with and solicit recommendations from
18 federal and state agencies and technical experts in the relevant area regarding permit
19 stipulations and issuance.

20 (e) The commissioner may not issue a permit under this section unless the
21 commissioner determines that the action would result in substantial public benefits and
22 would not jeopardize natural stocks.

23 (f) The department shall establish by regulation an application fee under this
24 section in an amount that provides for the total amount of fees collected under (b) of
25 this section to approximately equal the department's actual regulatory costs under this
26 chapter. The department shall annually review the fee level to determine whether the
27 department's regulatory costs under this chapter are approximately equal to the fees
28 collected. If the review indicates that fees collected and regulatory costs are not
29 approximately equal, the department shall adjust the application fee by regulation. In
30 January of each year, the department shall report the fee level and any revision made
31 for the previous year under this subsection to the office of management and budget.

1 **Sec. 16.12.020. Hearings before permit issuance.** (a) At least 30 days before
2 the issuance of a permit under AS 16.12.010, the department shall hold a public
3 hearing in a central location in the vicinity of the proposed release of shellfish.

4 (b) Notice of the hearing shall be published in a newspaper of general
5 circulation once a week for three consecutive weeks, with completion of the notice at
6 least five days before the hearing.

7 (c) The department shall conduct the hearing. The applicant shall present a
8 plan for the proposed project describing the capacity of the facility and other relevant
9 facts that may be of interest to the department or to the public. The department shall
10 give interested members of the public an opportunity to be heard.

11 (d) The department shall record and consider objections and recommendations
12 offered by the public at the hearing conducted under this section. The department shall
13 respond in writing, not later than 30 days after the hearing is held, to a specific
14 objection offered by a member of the public at the hearing.

15 **Sec. 16.12.030. Conditions of a permit.** The department shall require, in a
16 permit issued under this chapter, that the permit holder

17 (1) procure shellfish from the department or a source approved by the
18 department;

19 (2) place shellfish only in water of the state specifically designated in
20 the permit;

21 (3) not procure genetically modified shellfish or place genetically
22 modified shellfish into the water of the state;

23 (4) not resell or transfer shellfish sold to a permit holder by the state or
24 by another party approved by the department;

25 (5) not release shellfish before approval by the department, and, for
26 purposes of pathological examination and approval, that the permit holder notify the
27 department at least 15 days before the date of the proposed release of shellfish;

28 (6) destroy diseased shellfish in a specific manner and location
29 designated by the department;

30 (7) harvest shellfish only at specific locations and under specific
31 conditions as designated by the department;

1 (8) make surplus shellfish available for sale first to the department and
2 then, after inspection and approval by the department, to other permit holders
3 operating under this chapter;

4 (9) provide a copy of the sales transaction to the department if surplus
5 shellfish are sold by a permit holder to another permit holder;

6 (10) release shellfish in an area where the shellfish will be available to
7 traditional fisheries, subject to the provisions of this chapter and regulations adopted
8 under this chapter.

9 **Sec. 16.12.040. Alteration, suspension, or revocation of permit.** (a) If a
10 permit holder fails to comply with the conditions and terms of the permit issued under
11 AS 16.12.010 within a reasonable period after notification by the department of
12 noncompliance, the permit may be suspended or revoked, in the discretion of the
13 commissioner.

14 (b) If the commissioner finds that the operation of the permitted activity is not
15 in the best interests of the public, the commissioner may alter the conditions of the
16 permit to mitigate the adverse effects of the operation or, if the adverse effects are
17 irreversible and cannot be mitigated sufficiently, initiate a termination of the operation
18 under the permit over a reasonable period under the circumstances, not to exceed four
19 years. During the period that the operation is being terminated, the permit holder may
20 harvest shellfish under the terms of the permit but may not release additional shellfish.

21 **Sec. 16.12.050. Regulations relating to released shellfish.** (a) Shellfish
22 released into the natural water of the state by a permit holder under this chapter are
23 available to the people for common use and are subject to regulation under applicable
24 law in the same way as shellfish occurring in their natural state except when they are
25 in a special location designated by the department for harvest by a permit holder.

26 (b) The Board of Fisheries may, after the issuance of a permit by the
27 commissioner, amend by regulation adopted in accordance with AS 44.62
28 (Administrative Procedure Act) the terms of the permit relating to the source of brood
29 stock, the harvest of shellfish by permit holders, and the specific locations designated
30 by the department for harvest. The Board of Fisheries may not adopt a regulation or
31 take an action regarding the issuance or denial of a permit required in this chapter.

1 **Sec. 16.12.060. Department assistance and cooperation.** (a) Before and after
2 permit issuance under AS 16.12.010, the department shall make reasonable efforts,
3 within the limits of time and resources, to advise and assist applicants or permit
4 holders, as appropriate, as to projects under AS 16.12.010, including the planning,
5 construction, and operation of facilities.

6 (b) Nothing in this section exempts an applicant or permit holder from
7 compliance with this chapter or from compliance with the regulations or restrictions
8 adopted under this chapter.

9 **Sec. 16.12.070. Brood stock sources.** (a) The department shall approve the
10 source and number of shellfish taken for use as brood stock under this chapter.

11 (b) Where feasible, a permit holder shall first take shellfish from stocks native
12 to the area in which the shellfish will be released.

13 **Sec. 16.12.080. Sale of shellfish; use of proceeds; quality and price.** (a) A
14 permit holder that sells shellfish harvested from the natural water of the state, or sells
15 shellfish to another permit holder under this chapter, shall use the funds only for
16 reasonable operating costs, including debt retirement, expanding its facilities, a project
17 permitted under AS 16.12.010, shellfish research, or to assist in meeting the
18 department's costs of managing the affected fisheries for the area in which the
19 shellfish release is located.

20 (b) A permit holder shall ensure that shellfish harvested and sold for human
21 consumption are of comparable quality to shellfish harvested by commercial fisheries
22 in the area and are sold at prices commensurate with the current market.

23 **Sec. 16.12.090. Cost recovery fisheries.** (a) A permit holder may harvest
24 shellfish for a project under AS 16.12.010 in a special harvest area through

25 (1) agents or employees of or persons under contract with the permit
26 holder as provided under a permit from the department or regulations of the Board of
27 Fisheries; or

28 (2) the common property fishery under this section.

29 (b) A permit holder may, by a majority vote of the membership of the permit
30 holder's board of directors, elect to harvest shellfish in a special harvest area
31 established for a project under AS 16.12.010 through the common property fishery. At

1 the request of the permit holder and if the commissioner determines that there are no
2 allocative issues involved, and after reasonable consultation with affected commercial
3 fishermen, the commissioner may adopt regulations governing the harvest of shellfish
4 in a special harvest area through a common property fishery. The regulations must
5 specify the terms, conditions, and rules under which the common property fishery in
6 the special harvest area shall be conducted, including requirements for holding
7 inspections and reporting of harvests and sales of shellfish taken in the special harvest
8 area. Following adoption of regulations by the department, before January 15 of each
9 year, the permit holder's board, by a majority vote of the board's membership, may
10 determine whether the permit holder will operate under the regulations adopted under
11 this subsection during the current calendar year and shall notify the department if the
12 permit holder intends to operate under the regulations adopted under this subsection.
13 The Board of Fisheries may adopt regulations under AS 16.05.251 regarding a
14 fisheries management plan governing operations under this subsection in a special
15 harvest area, including allocation plans. Participation in the fishery must be open to all
16 interim-use permit and entry permit holders who hold permits to operate a type of gear
17 that may be used in the fishing district in which the special harvest area is located if
18 that type of gear is authorized by regulation to be used in the special harvest area. An
19 interim-use permit holder or an entry permit holder who takes shellfish in a common
20 property fishery in a special harvest area may sell the shellfish to a fish buyer or
21 processor who is licensed to do business in the state.

22 (c) As a condition of participation in a common property shellfish fishery in a
23 special harvest area under this section, a commercial fisherman who participates in the
24 fishery is subject to the payment of the assessment levied under (d) of this section on
25 the projected value of the shellfish or on the pounds of shellfish harvested. The
26 assessment is levied on the shellfish that the commercial fisherman takes in the special
27 harvest area and sells to a licensed buyer. The buyer of the shellfish must be licensed
28 under AS 43.75, and the buyer shall collect the assessment on shellfish taken in a
29 special harvest area at the time of purchase and remit the assessment to the
30 Department of Revenue in accordance with regulations adopted by the Department of
31 Revenue.

1 (d) The Department of Revenue may, by regulation, annually by March 1, set
2 the assessment levied on shellfish taken in a special harvest area in consultation with
3 the Department of Commerce, Community, and Economic Development, the permit
4 holder, and representatives of affected commercial fishermen. The assessment must
5 provide sufficient revenue to cover debt service, reasonable operating expenses,
6 reasonable maintenance expenses, and development or maintenance of a reserve fund
7 up to 100 percent of annual operating costs of the permit holder's project under
8 AS 16.12.010. In setting the assessment, the Department of Revenue shall consider the
9 estimated harvest of shellfish in the special harvest area, the projected price to be paid
10 for shellfish in the region, the amount of the existing reserve held by the permit holder,
11 and the amount by which the assessment collected in previous years exceeded or fell
12 short of the amount anticipated to be collected. The assessment may not exceed 50
13 percent of the value of the shellfish. The Department of Revenue may levy the
14 assessment as a percentage of the projected value of the shellfish harvested in the
15 special harvest area or as a flat rate on each pound of shellfish harvested in the area, to
16 the nearest whole cent.

17 (e) The Department of Revenue shall deposit the assessments collected under
18 this section in the general fund. The legislature may appropriate the funds collected
19 under this section to the permit holder who is carrying out a project under
20 AS 16.12.010, including the operation of a facility, in the special harvest area in which
21 the assessment was levied. A permit holder shall use funds appropriated under this
22 subsection for the purposes set out under AS 16.12.080(a). The legislature may also
23 appropriate funds collected under this section to the Department of Revenue for costs
24 incurred by the Department of Revenue under this section.

25 (f) A person who violates a regulation adopted under (b) of this section is
26 guilty of a violation under AS 16.05.722 or a misdemeanor under AS 16.05.723. A
27 person who violates a regulation adopted by the Department of Revenue under (c) of
28 this section is guilty of a class A misdemeanor.

29 (g) In this section,

30 (1) "special harvest area" means an area designated by the
31 commissioner or the Board of Fisheries where shellfish may be harvested by permit

1 holders under this chapter and by the common property fishery;

2 (2) "value" has the meaning given in AS 43.75.290.

3 **Sec. 16.12.100. Inspection by the department.** (a) A permit holder shall
4 allow the department to inspect the permit holder's facility for a project under
5 AS 16.12.010 at any time the facility is in operation. The department shall conduct the
6 inspection in a reasonable manner.

7 (b) The department shall bear the cost of an inspection performed under this
8 section.

9 **Sec. 16.12.110. Annual report.** A person who holds a permit under this
10 chapter shall submit an annual report not later than December 15 to the department.
11 The report must be made on a form prescribed by the department and contain
12 information pertaining to

13 (1) species;

14 (2) the brood stock source;

15 (3) the number, age, gender, and size of spawners;

16 (4) the number of eggs collected and juveniles produced; and

17 (5) the number, age, gender, and size of harvested shellfish attributable
18 to releases by the permit holder.

19 **Sec. 16.12.199. Definitions.** In this chapter,

20 (1) "facility" means a hatchery as defined in AS 16.40.199, a facility
21 for the release of shellfish into natural water of the state, or a facility for a project
22 under AS 16.12.010;

23 (2) "genetically modified shellfish" means shellfish whose genetic
24 structure has been altered at the molecular level by recombinant DNA and RNA
25 techniques, cell fusion, gene deletion or doubling, introduction of exogenous genetic
26 material, alteration of the position of a gene, or other similar procedure using artificial
27 processes;

28 (3) "shellfish" has the meaning given in AS 16.40.199.

29 * **Sec. 5.** AS 16.43.400(a) is amended to read:

30 (a) In addition to entry permits, interim-use permits, and educational permits,
31 the commission may issue special harvest area entry permits to

1 **(1)** holders of private, nonprofit hatchery permits issued by the
2 Department of Fish and Game under AS 16.10.400 - 16.10.475 **for salmon; and**
3 **(2) nonprofit organizations holding a permit under AS 16.12 for a**
4 **shellfish enhancement project.**

5 * **Sec. 6.** AS 16.43.430 is amended to read:

6 **Sec. 16.43.430. Authorized gear.** For the purposes of harvesting salmon **or**
7 **shellfish**, a special harvest area entry permit holder may employ any fishing gear
8 designated as legal gear in the applicable special harvest area by the Board of
9 Fisheries.

10 * **Sec. 7.** AS 16.51.090 is amended to read:

11 **Sec. 16.51.090. Powers of board.** In carrying out the powers of the institute,
12 the board may

- 13 (1) adopt, alter, and use a corporate seal;
- 14 (2) prescribe, adopt, amend, and repeal bylaws;
- 15 (3) sue and be sued in the name of the institute;
- 16 (4) enter into any agreements necessary to the exercise of its powers
17 and functions;
- 18 (5) cooperate with a public or private board, organization, or agency
19 engaged in work or activities similar to the work or activities of the institute, including
20 entering into contracts for joint programs of consumer education, sales promotion,
21 quality control, advertising, and research in the production, processing, or distribution
22 of seafood **and aquatic farm products;**
- 23 (6) conduct, or contract for, scientific research to develop and discover
24 health, dietetic, or other uses of seafood **and aquatic farm products** harvested and
25 processed in the state;
- 26 (7) receive contributions of money from persons;
- 27 (8) establish offices in the state and otherwise incur expenses
28 incidental to the performance of its duties;
- 29 (9) appear on behalf of the institute before boards, commissions,
30 departments, or other agencies of municipal, state, or federal government;
- 31 (10) acquire, hold, lease, sell, or otherwise dispose of property, but

1 such property is limited to that which is necessary to the administrative functioning of
2 the office of the institute;

3 (11) establish and maintain one or more bank accounts for the
4 transaction of the institute's business;

5 (12) prepare market research and product development plans for the
6 promotion of any species of seafood **and aquatic farm product** and their by-products
7 that may be harvested in the state and processed for sale;

8 (13) establish committees related to the marketing of salmon and
9 salmon products; the board shall, to the extent practicable, appoint equal numbers of
10 seafood processors and persons engaged in commercial fishing to the committees.

11 * **Sec. 8.** AS 16.51.110 is amended to read:

12 **Sec. 16.51.110. Prohibited promotions.** The board may not promote or make
13 a contract that promotes seafood **or aquatic farm products** by

14 (1) geographic origin other than from the state generally;

15 (2) geographic region of the state; or

16 (3) specific brand name.

17 * **Sec. 9.** AS 16.51.180(7) is amended to read:

18 (7) "seafood" means finfish, shellfish, and fish by-products, including
19 [BUT NOT LIMITED TO] salmon, halibut, herring, flounder, crab, clam, cod, shrimp,
20 and pollock, but does not include aquatic farm products [AS DEFINED IN
21 AS 16.40.199].

22 * **Sec. 10.** AS 16.51.180 is amended by adding a new paragraph to read:

23 (8) "aquatic farm product" has the meaning given in AS 16.40.199.

24 * **Sec. 11.** AS 17.20.049(b)(1) is amended to read:

25 (1) "farmed fish" means fish that is propagated, farmed, or cultivated
26 in a facility that grows, farms, or cultivates the fish in captivity or under positive
27 control but that is not a salmon hatchery that is owned by the state or that holds a
28 salmon hatchery permit under AS 16.10.400 **or a shellfish facility that is permitted**
29 **under AS 16.12.010**; in this paragraph, "positive control" has the meaning given in
30 AS 16.40.199;

31 * **Sec. 12.** AS 37.05.146(c) is amended by adding new paragraphs to read:

1 (80) fees collected by the Department of Fish and Game under
2 AS 16.10.400;

3 (81) fees collected by the Department of Fish and Game under
4 AS 16.12.010.

5 * **Sec. 13.** AS 38.05.035(a) is amended to read:

6 (a) The director shall

7 (1) have general charge and supervision of the division and may
8 exercise the powers specifically delegated to the director; the director may employ and
9 fix the compensation of assistants and employees necessary for the operations of the
10 division; the director is the certifying officer of the division, with the consent of the
11 commissioner, and may approve vouchers for disbursements of money appropriated to
12 the division;

13 (2) manage, inspect, and control state land and improvements on it
14 belonging to the state and under the jurisdiction of the division;

15 (3) execute laws, rules, regulations, and orders adopted by the
16 commissioner;

17 (4) prescribe application procedures and practices for the sale, lease, or
18 other disposition of available land, resources, property, or interest in them;

19 (5) prescribe fees or service charges, with the consent of the
20 commissioner, for any public service rendered;

21 (6) under the conditions and limitations imposed by law and the
22 commissioner, issue deeds, leases, or other conveyances disposing of available land,
23 resources, property, or any interests in them;

24 (7) have jurisdiction over state land, except that land acquired by the
25 Alaska World War II Veterans Board and the Agricultural Loan Board or the
26 departments or agencies succeeding to their respective functions through foreclosure
27 or default; to this end, the director possesses the powers and, with the approval of the
28 commissioner, shall perform the duties necessary to protect the state's rights and
29 interest in state land, including the taking of all necessary action to protect and enforce
30 the state's contractual or other property rights;

31 (8) maintain the records the commissioner considers necessary,

1 administer oaths, and do all things incidental to the authority imposed; the following
2 records and files shall be kept confidential upon request of the person supplying the
3 information:

4 (A) the name of the person nominating or applying for the sale,
5 lease, or other disposal of land by competitive bidding;

6 (B) before the announced time of opening, the names of the
7 bidders and the amounts of the bids;

8 (C) all geological, geophysical, and engineering data supplied,
9 whether or not concerned with the extraction or development of natural
10 resources;

11 (D) except as provided in AS 38.05.036, cost data and financial
12 information submitted in support of applications, bonds, leases, and similar
13 items;

14 (E) applications for rights-of-way or easements;

15 (F) requests for information or applications by public agencies
16 for land that is being considered for use for a public purpose;

17 (9) account for the fees, licenses, taxes, or other money received in the
18 administration of this chapter including the sale or leasing of land, identify their
19 source, and promptly transmit them to the proper fiscal department after crediting
20 them to the proper fund; receipts from land application filing fees and charges for
21 copies of maps and records shall be deposited immediately in the general fund of the
22 state by the director;

23 (10) select and employ or obtain at reasonable compensation cadastral,
24 appraisal, or other professional personnel the director considers necessary for the
25 proper operation of the division;

26 (11) be the certifying agent of the state to select, accept, and secure by
27 whatever action is necessary in the name of the state, by deed, sale, gift, devise,
28 judgment, operation of law, or other means any land, of whatever nature or interest,
29 available to the state; and be the certifying agent of the state, to select, accept, or
30 secure by whatever action is necessary in the name of the state any land, or title or
31 interest to land available, granted, or subject to being transferred to the state for any

1 purpose;

2 (12) on request, furnish records, files, and other information related to
3 the administration of AS 38.05.180 to the Department of Revenue for use in
4 forecasting state revenue under or administering AS 43.55, whether or not those
5 records, files, and other information are required to be kept confidential under (8) of
6 this subsection; in the case of records, files, or other information required to be kept
7 confidential under (8) of this subsection, the Department of Revenue shall maintain
8 the confidentiality that the Department of Natural Resources is required to extend to
9 records, files, and other information under (8) of this subsection;

10 (13) when reasonably possible, give priority to and expedite the
11 processing of an application for a lease or assignment of a lease of state land for
12 development and operation of a gas storage facility, for a right-of-way to a gas storage
13 facility, for a change to the allocation of production within a unit, and for a permit
14 necessary for the operation of a gas storage facility; in this paragraph, "gas storage
15 facility" has the meaning given in AS 31.05.032;

16 **(14) prepare an annual report that includes a list of the**
17 **applications for an aquatic farm or hatchery site lease under AS 38.05.083 that**
18 **have been pending with the department for longer than one year, the length of**
19 **time each application has been pending with the department, the length of time**
20 **each application has been reviewed by another state agency requested by the**
21 **department to review the application, and the reason for which an application**
22 **has not been granted; the director shall submit the report to the senate secretary**
23 **and chief clerk of the house of representatives on or before the first day of each**
24 **regular session of the legislature and notify the legislature that the report is**
25 **available.**

26 * Sec. 14. AS 38.05.070(e) is amended to read:

27 (e) The director may renew a lease issued under this section, AS 38.05.075,
28 **38.05.083**, or 38.05.810 upon its expiration if the lease is in good standing and the
29 lease renewal is determined to be in the best interests of the state. A renewal issued
30 under this subsection is not subject to AS 38.05.035(e). A lease **under this section,**
31 **AS 38.05.075, or 38.05.810** may be renewed only once for a term not longer than the

1 initial term of the lease. The director shall provide notice of the lease renewal
2 decision.

3 * **Sec. 15.** AS 38.05.083(a) is amended to read:

4 (a) The commissioner may offer to the public for lease at public auction or by
5 sealed bid under AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic
6 farming or related hatchery operations. Before a final decision to issue [OR RENEW]
7 a lease under this section, the commissioner shall give notice and allow opportunity
8 for comment in accordance with AS 38.05.945 and may hold a hearing to take
9 testimony. Before a final decision to issue [OR RENEW] a lease under this section,
10 the commissioner shall consider all relevant comment or testimony submitted under
11 this section, AS 38.05.945, or 38.05.946.

12 * **Sec. 16.** AS 38.05.083(b) is amended to read:

13 (b) The commissioner, for good cause, may deny an application for issuance
14 [OR RENEWAL] of a lease under this section but shall provide the applicant with
15 written findings that explain the reasons for the denial.

16 * **Sec. 17.** AS 38.05.083 is amended by adding new subsections to read:

17 (g) The commissioner may, under AS 38.05.070(e) - (g), renew or extend a
18 lease issued under this section.

19 (h) The commissioner shall, within one year after the department receives an
20 application for issuance of a lease under this section or renewal or extension under
21 AS 38.05.070(e) - (g) of a lease issued under this section, grant or deny the
22 application.

23 (i) Nothing in this section prohibits a lessee under this section using a site for
24 aquatic farming and related hatchery operations from also using that site for
25 ecotourism or educational purposes.

26 (j) Except for the amount charged to a lessee for the lease of a site, the
27 commissioner may not charge an additional fee to a lessee, an assignee of a lessee, or
28 another person for the use of, or for passage across, land leased under this section.

29 * **Sec. 18.** AS 43.20.012(a) is amended to read:

30 (a) The tax imposed by this chapter does not

31 (1) apply to an individual;

1 (2) apply to a fiduciary;

2 (3) for a tax year beginning after December 31, 2012, apply to an
3 Alaska corporation that is a qualified small business and that meets the active business
4 requirement in 26 U.S.C. 1202(e) as that subsection read on January 1, 2012; [OR]

5 (4) for a tax year beginning after June 30, 2007, apply to the income
6 received by a regional association qualified under AS 16.10.380 or nonprofit
7 corporation holding a hatchery permit under AS 16.10.400 from the sale of salmon or
8 salmon eggs under AS 16.10.450 or from a cost recovery fishery under AS 16.10.455;

9 **or**

10 **(5) apply to income received by a nonprofit corporation holding a**
11 **permit under AS 16.12.010 from the sale of shellfish under AS 16.12.080 or from**
12 **a cost recovery fishery under AS 16.12.090.**

13 * **Sec. 19.** AS 43.20.012(a), as repealed and reenacted by sec. 2, ch. 55, SLA 2013, is
14 amended to read:

15 (a) The tax imposed by this chapter does not apply to

16 (1) an individual;

17 (2) a fiduciary; [OR]

18 (3) the income received by a regional association qualified under
19 AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400
20 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery
21 fishery under AS 16.10.455; **or**

22 **(4) the income received by a nonprofit corporation holding a**
23 **permit under AS 16.12.010 from the sale of shellfish under AS 16.12.080 or from**
24 **a cost recovery fishery under AS 16.12.090.**

25 * **Sec. 20.** AS 43.76.390 is amended to read:

26 **Sec. 43.76.390. Exemption.** AS 43.76.350 - 43.76.399 do not apply to salmon
27 **or shellfish** harvested under a special harvest area entry permit issued under
28 AS 16.43.400.

29 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 REPORT TO LEGISLATURE. (a) The Department of Natural Resources, in

1 cooperation with the Department of Fish and Game, shall prepare a written report that
2 includes

3 (1) the number of shellfish enhancement project permit applications under
4 AS 16.12 that are pending review with the Department of Fish and Game, the date each
5 application was submitted to the department, and the reason for which each application has
6 not been granted;

7 (2) the number of aquatic farming and hatchery site lease applications under
8 AS 38.05.083 that are pending review with the Department of Natural Resources, the date
9 each application was submitted to the department, and the reason for which each application
10 has not been granted;

11 (3) an estimate of the monetary investments and jobs that might be made or
12 created if all pending applications relating to shellfish enhancement projects under AS 16.12
13 and aquatic farming and hatchery site leases under AS 38.05.083 were approved; and

14 (4) recommendations from the Department of Natural Resources, the
15 Department of Fish and Game, and other state agencies for the streamlining and improvement
16 of the permitting process for shellfish enhancement projects and leasing arrangements for
17 aquatic farm and hatchery sites.

18 (b) The commissioner of natural resources shall deliver the report prepared under (a)
19 of this section to the senate secretary and the chief clerk of the house of representatives not
20 later than January 20, 2021, and notify the legislature that the report is available.

21 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 APPLICABILITY. AS 16.10.400(b), as amended by sec. 2 of this Act, applies to
24 salmon hatchery permits applied for on or after the effective date of sec. 2 of this Act.

25 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITION: REGULATIONS. The Department of Fish and Game may adopt
28 regulations necessary to implement this Act. The regulations take effect under AS 44.62
29 (Administrative Procedure Act), but not before the effective date of the law implemented by
30 the regulation.

31 * **Sec. 24.** Section 23 of this Act takes effect immediately under AS 01.10.070(c).

1 * **Sec. 25.** AS 38.05.083(h), enacted by sec. 17 of this Act, takes effect January 1, 2021.

2 * **Sec. 26.** Section 19 of this Act takes effect on the effective date of sec. 2, ch. 55, SLA
3 2013.