

**Submitted by Board Member Carlson-Van Dort, prepared by the
Alaska Department of Fish and Game¹.**

March 13, 2023

Substitute language for proposal 164 :

5 AAC 77.0XX is amended by adding new sections to read:

5 AAC 77.0XX. Personal use fishing services and personal use fishing guide services; registration requirements; regulation of activities.

(a) An owner of a business shall register with the department before the business conducts personal use fishing services. To meet the registration requirements of this section, the owner shall complete and submit to the department a current annual personal use fishing operator registration form provided by the department. The following information regarding the business conducting personal use fishing services must be provided on the form:

(1) the name and permanent mailing address of the owner;

(2) the name of the business and current Alaska Business License number, issued under 12 AAC 12.

(b) A person shall register with the department before the person conducts personal use fishing guide services. To meet the registration requirements of this section, a person shall complete and submit to the department a current annual personal use fishing guide registration form provided by the department. The following information regarding the applicant must be provided on the form:

(1) the applicant's name and permanent mailing address;

(2) the applicant's current Alaska sport fishing license number.

(c) While providing personal use fishing guide services, a person shall have readily available for inspection and shall display upon request of a representative of the department or a peace officer of the state, and while providing personal use fishing guide services on salt water or while on navigable fresh water within six hours after providing such services on salt water, a person shall have readily available for inspection and shall display upon request of a law enforcement representative of the National Marine Fisheries Service or a representative of the United States Coast Guard, the following:

(1) the person's current personal use fishing guide registration or card;

(2) the current personal use fishing operator registration or card, or a copy, of the person's employer or the person;

(3) the person's current sport fishing license, harvest records, tags, stamps, or permits that are required to engage in the personal use fishery for which the personal use fishing guide services are provided;

(4) an identification card issued to the person by a state or federal agency that bears a photograph of the person;

(5) if on a vessel in salt water, the sport fishing license, personal use harvest record, if required, of each client on board the vessel.

(h) A personal use fishing guide or a registered personal use fishing operator may not

(1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40 by an angler who is a client of the person or operator; or

(2) permit the commission by an angler who is a client of the person or operator of a violation of AS 16.05 - 16.40 or a regulation adopted under AS 16.05 - 16.40 that the personal use fishing guide knows or reasonably believes is being or will be committed without

(A) attempting to prevent it, short of using force; and

(B) reporting the violation.

5 AAC 77.0XX. Personal use fishing guide vessel registration requirements.

(a) Before being used to provide personal use fishing guide services, a vessel must be registered annually with the department. A business owner, or the owner's authorized agent, shall register each individual vessel operated by the business to provide personal use fishing guide services by completing a form provided by the department. At the time of registration, the business owner, or the owner's authorized agent, must provide the current division of motor vehicles boat registration number, issued under 2 AAC 70, or the current United States Coast Guard vessel documentation number of each vessel being registered.

(b) A person may not engage in personal use fishing guide services from a powered or unpowered vessel unless the vessel is registered under (a) of this section and displays a personal use fishing guide vessel decal with a current annual sticker issued by the department as follows:

(1) upon initial registration of a vessel, two personal use fishing guide vessel decals will be issued by the department for that vessel; one decal must be securely affixed

on each side of the vessel and must be displayed in plain view at all times the vessel is used to provide personal use fishing guide services;

(2) for the years following the year of initial registration of a vessel, two current year renewal stickers will be issued by the department for that vessel; one current year renewal sticker must be securely affixed on each decal over the previous year renewal sticker and must be displayed in plain view at all times the vessel is used to provide personal use fishing guide services.

(c) If a decal or current year renewal sticker is lost or damaged, a replacement must be obtained from the department and affixed and displayed as required in this section before the vessel is used to provide personal use fishing guide services.

For the purpose of this section, the following definitions apply,

(1) "charter vessel" means a vessel used for hire in the sport, personal use, or subsistence taking of fish or shellfish, and not used on the same day for any other commercial fishing purpose; a charter vessel does not include a vessel or skiff without a charter vessel operator;

(2) "charter vessel operator" means a person engaged in carrying any person on board a vessel for any valuable consideration that passes directly or indirectly to the vessel's owner, operator, or a person with a financial interest in the vessel;

(3) "client" means a person who is a member of a fishing party that engages or uses a person to provide personal use fishing guide services and who is not a personal use fishing guide or personal use fishing guide crewmember;

(4) "personal use fishing guide" means a person who provides personal use fishing guide services to persons who are engaged in personal use fishing;

(5) "personal use fishing guide services"

(A) means assistance, for compensation or with the intent to receive compensation, to a personal use fisherman to take or to attempt to take fish by accompanying or physically directing the personal use fisherman in personal use fishing activities during any part of a personal use fishing trip;

(B) does not include

(i) personal use fishing services; or

(ii) services provided by an assistant, deckhand, or similar person who works directly under the supervision of and on the same vessel as a personal use fishing guide;

(6) "personal use fishing services"

(A) means the indirect provision of assistance, for compensation or with the intent to receive compensation, to a person engaged in personal use fishing in taking or attempting to take fish or shellfish by a business that employs a personal use fishing guide to provide personal use fishing guide services to the person during any portion of a personal use fishing trip:

(B) does not include

(i) an activity for which a personal use fishing guide registration is required; or

(ii) booking and other ancillary services provided by a tour broker or agent to a personal use fishing services operator;

(7) "personal use fishing guide crewmember" means a person who, for compensation or with intent to receive compensation for services during a day or any portion of a day, provides assistance on board a vessel to clients of a personal use fishing guide or a personal use fishing guide operator;

(d) In this chapter, unless the context requires otherwise, "compensation"

(1) means direct or indirect payment, remuneration, and other benefits received in return for services, regardless of the source; in this paragraph, "benefits" includes

(A) wages and other employment benefits given directly or indirectly to an individual or organization; and

(B) dues, payments, fees, and other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides personal use fishing guide services;

(2) does not include reimbursement for the actual daily expenses for fuel, food, or bait.

ⁱ Preparation of draft substitute language at the request of a Board member does not imply ADF&G support. The Department will state its position on the language during deliberation.