A BILL

FOR AN ACT ENTITLED

"An Act relating to a four-year moratorium on entry into Southeast Alaska dive fisheries; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

(1) the Southeast Alaska dive fisheries for sea cucumber, abalone, and geoduck may be approaching or exceeding the maximum sustainable harvest levels for these fishery resources in the areas where the fisheries occur;

(2) the number of divers participating in the Southeast Alaska dive fisheries was precariously high at the end of 1995;

(3) a moratorium on entry into the Southeast Alaska dive fisheries is necessary to allow a proper review and analysis of the sea cucumber, abalone, geoduck, and sea urchin fisheries before permanent damage is done to these fishery resources due to the accelerated growth in participation in these fisheries;

(4) in recent years the Southeast Alaska dive fishery for sea urchin could not
be opened due to the lack of research and management tools and concern that a large number of new divers would be difficult to manage and may threaten the sustained yield management of the sea urchin resource;

(5) individuals who participated in the abalone, sea cucumber, and geoduck fisheries in Southeast Alaska during 1994 and 1995, would have been likely to participate in a sea urchin fishery during those years if a fishery had occurred;

(6) current economic dependence on a fishery is best demonstrated by recent participation in, and economic reliance upon, a fishery;

(7) information currently available is insufficient to conclude whether entry limitation under AS 16.43 would serve the purposes of AS 16.43;

(8) a moratorium on entry into the Southeast Alaska dive fisheries is necessary to provide an opportunity to investigate alternative means of fishing effort regulation that may be more appropriate for these fisheries;

(9) it is in the best interests of the state, the communities, and the fishing industry that appropriate management options for the various dive fisheries be identified and implemented as soon as possible in order that the entry moratorium on any or all of the dive fisheries may be lifted;

(10) the Southeast Alaska dive fisheries have reached a level of participation that may threaten the conservation of the sea cucumber, abalone, geoduck, and sea urchin resources and the economic health and stability of the sea cucumber, abalone, geoduck, and sea urchin fisheries; and

(11) the Alaska Commercial Fisheries Entry Commission has insufficient information to determine whether the establishment of a maximum number of entry permits for the Southeast Alaska dive fisheries under AS 16.43.240 would further the purposes of AS 16.43.

* Sec. 2. AS 16.43 is amended by adding a new section to read:

Sec. 16.43.228. SOUTHEAST ALASKA DIVE FISHERIES. (a) A person may not take sea cucumber in the Southeast Alaska sea cucumber fishery without an interim-use permit issued by the commission. The commission may not issue an interim-use permit for the Southeast Alaska sea cucumber fishery unless the applicant presents proof satisfactory to the commission that
(1) during calendar year 1994 or 1995 the applicant commercially harvested sea cucumber in the Southeast Alaska sea cucumber fishery while holding an interim-use permit for the Southeast Alaska sea cucumber fishery; or

(2) during each of the five calendar years 1991, 1992, 1993, 1994, and 1995, the applicant commercially harvested sea cucumber, abalone, geoduck, or sea urchin in Southeast Alaska while holding the appropriate interim-use permit.

(b) A person may not take abalone in the Southeast Alaska abalone fishery without an interim-use permit issued by the commission. The commission may not issue an interim-use permit for the Southeast Alaska abalone fishery unless the applicant presents proof satisfactory to the commission that

(1) during calendar year 1994 or 1995 the applicant commercially harvested abalone in the Southeast Alaska abalone fishery while holding an interim-use permit for the Southeast Alaska abalone fishery; or

(2) during each of the five calendar years 1991, 1992, 1993, 1994, and 1995, the applicant commercially harvested sea cucumber, abalone, geoduck, or sea urchin in Southeast Alaska while holding the appropriate interim-use permit.

(c) A person may not take geoduck in the Southeast Alaska geoduck fishery without an interim-use permit issued by the commission. The commission may not issue an interim-use permit for the Southeast Alaska geoduck fishery unless the applicant presents proof satisfactory to the commission that

(1) between January 1, 1994, and January 31, 1996, the applicant commercially harvested geoduck in the Southeast Alaska geoduck fishery while holding an interim-use permit for the Southeast Alaska geoduck fishery; or

(2) during each of the five calendar years 1991, 1992, 1993, 1994, and 1995, the applicant commercially harvested sea cucumber, abalone, geoduck, or sea urchin in Southeast Alaska while holding the appropriate interim-use permit.

(d) A person may not take sea urchin in the Southeast Alaska sea urchin fishery without an interim-use permit issued by the commission. The commission may not issue an interim-use permit for the Southeast Alaska sea urchin fishery unless the applicant presents proof satisfactory to the commission that

(1) during calendar year 1992 or 1993, the applicant commercially
harvested sea urchin in the Southeast Alaska sea urchin fishery while holding the appropriate interim-use permit;

(2) during calendar year 1994 or 1995, the applicant commercially harvested sea cucumber or abalone in the Southeast Alaska sea cucumber or abalone fishery while holding the appropriate interim-use permit; or

(3) between January 1, 1994, and January 31, 1996, the applicant commercially harvested geoduck in the Southeast Alaska geoduck fishery while holding an interim-use permit for the Southeast Alaska geoduck fishery.

(e) During the four years that a moratorium established by this section is in effect, the commission shall

(1) issue interim-use permits for each fishery subject to (a) - (d) of this section to applicants who satisfy the appropriate qualifications established under (a) - (d) of this section and who establish the present ability and intent to participate actively in the fishery;

(2) conduct investigations to determine whether a maximum number of entry permits should be established under AS 16.43.240 for each fishery subject to this section by

(A) conducting research into conditions in the fishery;

(B) consulting with the Department of Fish and Game and the Board of Fisheries; and

(C) consulting with participants in the fishery; and

(3) in cooperation with the Department of Fish and Game, conduct investigations to determine whether an alternative form of a nontransferable limited entry or other management program is appropriate for a fishery subject to this section.

(f) Notwithstanding AS 16.43.225, for the purposes of this chapter,

(1) an interim-use permit issued under this section shall be treated as an interim-use permit issued under AS 16.43.225;

(2) a moratorium established under this section shall be treated as a moratorium established under AS 16.43.225.

(g) The commission may not consider participation in a fishery, subject to a moratorium on entry under this section, that occurs during the period of the
moratorium in determining eligibility for an entry permit that may be issued for the fishery after termination of the moratorium.

* Sec. 3. AS 16.43.260(f) is amended to read:

  (f) When the commission establishes the maximum number of entry permits under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225, an applicant for an entry permit for the fishery shall be assigned to a priority classification based solely upon the applicant’s qualifications as of the effective date of the statute or regulation establishing the moratorium.

* Sec. 4. AS 16.43.228(a), 16.43.228(b), 16.43.228(c), and 16.43.228(d), added by sec. 2 of this Act, are repealed July 1, 2000.

* Sec. 5. This Act takes effect July 1, 1996.