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Bullard
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CS FOR HOUSE BILL NO. 112()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE STUTES

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska Commercial Fisheries Entry Commission; transferring some of the commission's duties to a commercial fisheries entry division established in the Department of Fish and Game; relating to certain commercial fishing interim-use and entry permit fees; and providing for an effective date."

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

*** Section 1.** AS 16.05.050(a) is amended to read:

(a) The commissioner has, but not by way of limitation, the following powers and duties:

(1) through the appropriate state agency and under the provisions of AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other lawful means, land, buildings, water, rights-of-way, or other necessary or proper real or personal property when the acquisition is in the interest of furthering an objective or purpose of the department and the state;

(2) under the provisions of AS 36.30, to design and construct

hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the state;

(3) to accept money from any person under conditions requiring the use of the money for specific purposes in the furtherance of the protection, rehabilitation, propagation, preservation, or investigation of the fish and game resources of the state or in settlement of claims for damages to fish or game resources;

(4) to collect, classify, and disseminate statistics, data, and information that, in the commissioner's discretion, will tend to promote the purposes of this title except AS 16.51 and AS 16.52;

(5) to take, capture, propagate, transport, buy, sell, or exchange fish or game or eggs for propagating, scientific, public safety, or stocking purposes;

(6) under the provisions of AS 36.30, to provide public facilities where necessary or proper to facilitate the taking of fish or game, and to enter into cooperative agreements with any person to effect them;

(7) to exercise administrative, budgeting, and fiscal powers;

(8) under the provisions of AS 36.30, to construct, operate, supervise, and maintain vessels used by the department;

(9) to authorize the holder of an interim-use permit under AS 16.43 to engage on an experimental basis in commercial taking of a fishery resource with vessel, gear, and techniques not presently qualifying for licensing under this chapter in conformity with standards established by the **commercial fisheries entry division of the department under AS 16.43** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION];

(10) not later than January 31 of each year, to provide to the commissioner of revenue the names of those fish and shellfish species that the commissioner of fish and game designates as developing commercial fish species for that calendar year; a fish or shellfish species is a developing commercial fish species if, within a specified geographical region,

(A) the optimum yield from the harvest of the species has not been reached;

(B) a substantial portion of the allowable harvest of the species

has been allocated to fishing vessels of a foreign nation; or

(C) a commercial harvest of the fish species has recently developed;

(11) to initiate or conduct research necessary or advisable to carry out the purposes of this title except AS 16.51 and AS 16.52;

(12) to enter into cooperative agreements with agencies of the federal government, educational institutions, or other agencies or organizations, when in the public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

(13) to implement an on-board observer program authorized by the Board of Fisheries under AS 16.05.251(a)(13); implementation

(A) must be as unintrusive to vessel operations as practicable; and

(B) must make scheduling and scope of observers' activities as predictable as practicable;

(14) to sell fish caught during commercial fisheries test fishing operations;

(15) to establish and charge fees equal to the cost of services provided by the department, including provision of public shooting ranges, broodstock and eggs for private nonprofit hatcheries, department publications, and other direct services, and reasonable fees for the use of state facilities managed by the department; fees established under this paragraph for tours of hatchery facilities, commercial use of sport fishing access sites, and for operation of state hatchery facilities by private aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

(16) to permit and regulate aquatic farming in the state in a manner that ensures the protection of the state's fish and game resources and improves the economy, health, and well-being of the citizens of the state;

(17) to operate state housing and facilities for employees, contractors, and others in support of the department's responsibilities and to charge rent that is consistent with applicable collective bargaining agreements, or, if no collective bargaining agreement is applicable, competitive with market conditions; rent received from tenants shall be deposited in the general fund;

(18) [TO PETITION THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION, UNLESS THE BOARD OF FISHERIES DISAPPROVES THE PETITION UNDER AS 16.05.251(g),] to establish a moratorium on new entrants into commercial fisheries, unless the Board of Fisheries disapproves the request under AS 16.05.251(g).

(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(B) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(C) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery;

(19) to promote fishing, hunting, and trapping and preserve the heritage of fishing, hunting, and trapping in the state;

(20) under the provisions of AS 16.43, to regulate and control entry of participants and vessels into the commercial fisheries in the public interest and without unjust discrimination.

* Sec. 2. AS 16.05.251(g) is amended to read:

(g) Upon request of the commissioner, the [THE] Board of Fisheries shall consider imposing [A REQUEST OF THE COMMISSIONER FOR APPROVAL OF A PETITION TO THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION TO ESTABLISH] a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the board's receipt [BY THE BOARD] of the request [FOR APPROVAL OF THE PETITION] and that allows time for the notice required under this subsection. The board may consider the request of the commissioner [FOR APPROVAL OF THE PETITION] only after 15 days' public notice of the board's intention to consider the request [APPROVAL OF THE PETITION]. The board shall consider whether the commissioner, in support of the request [FOR APPROVAL OF THE PETITION], has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the

meeting when the request [PETITION] must be considered shall approve or disapprove the request [PETITION].

* **Sec. 3.** AS 16.05.450(b) is amended to read:

(b) The commercial fisheries entry division of the department [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] shall issue a vessel license under AS 16.05.490 to each qualified vessel for which a written application has been filed, at a place in the state designated by the commercial fisheries entry division of the department [COMMISSION], containing the reasonable information required by the commercial fisheries entry division of the department [COMMISSION] together with the required fee. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

* **Sec. 4.** AS 16.05.480(d) is amended to read:

(d) Upon request, the commercial fisheries entry division of the department [OR THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] shall provide a social security number provided by an applicant for a license under this section to the child support services agency created in AS 25.27.010, or the child support agency of another state, for child support purposes authorized under law.

* **Sec. 5.** AS 16.05.520 is amended to read:

Sec. 16.05.520. Number plate. (a) The vessel license includes a permanent number plate. The number plate shall be accompanied by a tab affixed to the number plate designating the year to be fished. A number plate is not transferable, and the number plate shall be considered a permanent fixture on [UPON] the vessel on [UPON] which the number plate is originally placed. The number plate shall be securely fastened well forward on the port side in plain sight. On a vessel with a superstructure, the number plate shall be fastened on the port side of the superstructure. A number plate remains the property of the state. The commercial fisheries entry division of the department [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] may establish by regulation a reasonable fee for the initial issuance of a permanent number plate. If a permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall

1 immediately apply for and may obtain a duplicate upon furnishing the **commercial**
2 **fisheries entry division of the department** [ALASKA COMMERCIAL FISHERIES
3 ENTRY COMMISSION] with the pertinent facts and a payment of a reasonable fee
4 established by the **commercial fisheries entry division of the department**
5 [COMMISSION] by regulation that is not less than \$2.

6 (b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner
7 shall immediately report the loss, destruction, or sale to the **commercial fisheries**
8 **entry division of the department** [ALASKA COMMERCIAL FISHERIES ENTRY
9 COMMISSION].

10 * **Sec. 6.** AS 16.05.530(a) is amended to read:

11 (a) Upon payment of the vessel license fee and filing of the name and address
12 of the owner of the vessel or the owner's authorized agent, the name and number of the
13 vessel, a description of the vessel, the vessel license number, if any, the area to be
14 fished, and other reasonable information required by the **commercial fisheries entry**
15 **division of the department** [ALASKA COMMERCIAL FISHERIES ENTRY
16 COMMISSION], the **commercial fisheries entry division of the department**
17 [COMMISSION] shall issue a permanent number plate and a vessel license. If the
18 vessel has a permanent number plate, the **commercial fisheries entry division of the**
19 **department** [COMMISSION] shall issue a vessel license and tab designating the year
20 the license is valid. The tab shall be placed in the space provided on the permanent
21 number plate.

22 * **Sec. 7.** AS 16.05.675(a) is amended to read:

23 (a) A person who does not hold a limited entry permit or interim-use permit
24 issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671 may not
25 deliver or land fish in the state unless the person

26 (1) holds a valid federal permit to operate commercial fishing gear in
27 the fishery conservation zone; and

28 (2) has been issued a landing permit by the **commercial fisheries entry**
29 **division of the department** [ALASKA COMMERCIAL FISHERIES ENTRY
30 COMMISSION].

31 * **Sec. 8.** AS 16.05.675(c) is amended to read:

(c) The commercial fisheries entry division of the department [COMMISSIONER] may [AUTHORIZE THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION TO] issue landing permits for a fishery if the commissioner has made a written finding that the issuance of landing permits for that fishery is consistent with state resource conservation and management goals.

* **Sec. 9.** AS 16.05.815(a) is amended to read:

(a) Except as provided in (b) and (c) of this section, records required by regulations of the department concerning the landings of fish, shellfish, or fishery products, and annual statistical reports of fishermen, buyers, and processors required by regulation of the department are confidential and may not be released by the department [OR BY THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] except as set out in this subsection. [THE DEPARTMENT MAY RELEASE THE RECORDS AND REPORTS SET OUT IN THIS SUBSECTION TO THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION.] The department [AND THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, other than a recipient under (5) - (9) of this subsection, agrees to maintain the confidentiality of the records and reports. The department [AND THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] may release

(1) any of the records and reports to the National Marine Fisheries Service and the professional staff of the North Pacific Fishery Management Council as required for preparation and implementation of the fishery management plans of the North Pacific Fishery Management Council within the exclusive economic zone;

(2) any of the records and reports to the professional staff of the Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries Information Network project for the purpose of exchanging information with users authorized by the department;

(3) any of the records and reports to the Department of Revenue to assist the department in carrying out its statutory responsibilities;

(4) records or reports of the total value purchased by each buyer to a

1 municipality that levies and collects a tax on fish, shellfish, or fishery products if the
2 municipality requires records of the landings of fish, shellfish, or fishery products to
3 be submitted to it for purposes of verification of taxes payable;

4 (5) [SUCH] records and reports as necessary to be in conformity with a
5 court order;

6 (6) on request, the report of a person to the person whose fishing
7 activity is the subject of the report, or to a designee of the person whose fishing
8 activity is the subject of the report;

9 (7) on request, annual statistical reports of a fisherman, buyer, or
10 processor to the fisherman, buyer, or processor whose activity is the subject of the
11 report, or to a designee of the fisherman, buyer, or processor whose activity is the
12 subject of the report;

13 (8) any of the records and reports to the Department of Public Safety
14 for law enforcement purposes;

15 (9) fish tickets, fish ticket information, records required of sport fishing
16 guides, and annual statistical reports of fishermen, buyers, and processors and
17 information in those reports to the law enforcement personnel of the National Marine
18 Fisheries Service and the National Oceanic and Atmospheric Administration for the
19 purpose of enforcing fishery laws in waters of this state and in waters of the exclusive
20 economic zone adjacent to this state;

21 (10) fish tickets, fish ticket information, and records required of sport
22 fishing guides regarding halibut to the International Pacific Halibut Commission;

23 (11) any of the records and reports to the child support services agency
24 created in AS 25.27.010, or the child support enforcement agency of another state, for
25 child support purposes authorized under law;

26 (12) any of the records and reports to the Department of Natural
27 Resources to assist the department in carrying out its statutory responsibilities in
28 regard to sport fishing operations and sport fishing guides within the Kenai River
29 Special Management Area under AS 41.21.500 - 41.21.514; and

30 (13) fish ticket information and records or reports of the total value
31 purchased by each fisherman, buyer, or processor to the National Marine Fisheries

Service for the purpose of enforcing the industry fee system of a fishing capacity reduction program under 16 U.S.C. 1861a (Magnuson-Stevens Fishery Conservation and Management Act).

* **Sec. 10.** AS 16.10.333(a) is amended to read:

(a) Loans under AS 16.10.310(a) may be made to an individual commercial fisherman for the purchase of a limited entry permit upon certification by the commercial fisheries entry division of the Department of Fish and Game [COMMISSION] that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted under AS 16.43 [BY THE COMMISSION].

* **Sec. 11.** AS 16.10.333(d) is amended to read:

(d) Upon satisfaction of the note by the debtor, the commissioner shall certify to the commercial fisheries entry division of the Department of Fish and Game [COMMISSION] that the note has been satisfied.

* **Sec. 12.** AS 16.10.333(e) is amended to read:

(e) Upon certification as provided in (d) of this section, the commercial fisheries entry division of the Department of Fish and Game [COMMISSION] shall amend the permit certificate to list the debtor as the legal owner.

* **Sec. 13.** AS 16.10.335(a) is amended to read:

(a) If the debtor defaults on [UPON] a note for which a limited entry permit has been pledged as security under AS 16.10.333 or 16.10.338, the commissioner shall provide the debtor, by both certified and first class mail sent to the debtor's last known address on file with the commissioner, with a notice of default that includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commercial fisheries entry division of the Department of Fish and Game [COMMISSION];

(2) the date on [UPON] which the default occurred;

(3) the amount of the debtor's outstanding principal and interest as of the date of the default notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days after the postmark

1 date of the notice, request a hearing to submit evidence showing the debtor has not
2 defaulted;

3 (5) a statement that the note may be reinstated if it is brought current
4 within 120 days after the postmark date of the notice;

5 (6) a statement that, under AS 16.10.310(a)(4), the debtor may reinstate
6 the note by submitting to the commissioner a plan of repayment if the commissioner
7 accepts the debtor's plan of repayment;

8 (7) the place where reinstatement of the note or payment in full may be
9 made; and

10 (8) a notice in at least 10-point bold type stating: IMPORTANT:
11 YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE
12 SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE
13 PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED
14 AGAINST YOU.

15 * **Sec. 14.** AS 16.10.337(a) is amended to read:

16 (a) Upon a foreclosure on an entry permit as provided in AS 16.10.335 or the
17 termination of a debtor's interest in an entry permit under AS 16.10.335(g), the
18 commissioner shall offer the **commercial fisheries entry division of the Department**
19 **of Fish and Game** [COMMISSION] a right of first refusal if the permit is subject to a
20 buy-back program under AS 16.43.290 - 16.43.330 at a price equal to the amount
21 outstanding on the note plus any costs the department directly incurred in
22 administering the loan.

23 * **Sec. 15.** AS 16.10.337(b) is amended to read:

24 (b) If the **commercial fisheries entry division of the Department of Fish**
25 **and Game** [COMMISSION] does not exercise its right of first refusal within 30 days
26 after it receives the offer, or if the permit is not subject to a buy-back program under
27 AS 16.43.290 - 16.43.330, the department shall advertise and sell the permit. If the
28 proceeds of the sale of a permit exceed the amount necessary to pay the note in full,
29 plus penalties, costs of administration of the note, attorney fees, and child support
30 liens of which the department has notice, the excess shall be transferred by the
31 commissioner to the debtor. At any time until the permit has been sold under this

subsection, the debtor may repurchase the permit by paying the department the amount necessary to pay the note in full, plus penalties, costs of administration of the note, and attorney fees, as determined by the commissioner.

* **Sec. 16.** AS 16.10.360(4) is amended to read:

(4) "department" means the Department of Commerce, Community, and Economic Development unless specifically provided otherwise;

* **Sec. 17.** AS 16.40.250 is amended to read:

Sec. 16.40.250. Salmon fishery associations. The commissioner may assist in and encourage the formation of qualified salmon fishery associations for the purpose of promoting the consolidation of the fishing fleet in a salmon fishery for which the commercial fisheries entry division of the department [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] has issued commercial fishing entry permits under AS 16.43. A salmon fishery association is qualified if the commissioner determines that the regional association

(1) is incorporated as a nonprofit corporation under AS 10.20;

(2) is made up [COMPRISED] of interim-use permit and entry permit holders in the salmon fishery for which the association is established; and

(3) has a board of directors that is made up [COMPRISED] of interim-use permit and entry permit holders in the salmon fishery.

* **Sec. 18.** AS 16.43 is amended by adding a new section to read:

Sec. 16.43.015. Commercial fisheries entry division. (a) The commercial fisheries entry division is established as a regulatory division of the department.

(b) The commissioner shall appoint the director of the commercial fisheries entry division.

* **Sec. 19.** AS 16.43.020(a) is amended to read:

(a) The [THERE IS ESTABLISHED THE] Alaska Commercial Fisheries Entry Commission is established as a limited regulatory, research, [REGULATORY] and quasi-judicial agency of the state. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

* **Sec. 20.** AS 16.43.060 is amended to read:

1 **Sec. 16.43.060. Compensation, hours, and benefits.** Members of the
2 commission are in the exempt service and shall be compensated with an hourly
3 wage that is [ARE ENTITLED TO A MONTHLY SALARY] equal to the monthly
4 salary for a step in Range 27 [OF THE SALARY SCHEDULE] in AS 39.27.011
5 divided by 162.5. A member of the commission may not work more than eight
6 hours a day or 29 hours a week and is not eligible to receive state benefits. A
7 member is entitled to per diem and travel expenses authorized for boards and
8 commissions under AS 39.20.180. In this section, "benefits" includes credited
9 service in a state retirement system, membership in the supplemental employee
10 benefits system under AS 39.30.150 - 39.30.180, and group life and health
11 insurance provided under AS 39.30.090 - 39.30.095.

12 * **Sec. 21.** AS 16.43.080(a) is amended to read:

13 (a) The commission shall employ an executive director to manage the
14 commission's work load, employees, and adjudicatory proceedings. The
15 commission may delegate to the executive director any duty imposed on or power
16 granted to the commission under this chapter, except its power to adopt
17 regulations and its duty to conduct adjudicatory procedures under AS 16.43.110.
18 The commission may employ other [THOSE] persons necessary to carry out the
19 purposes of this chapter. Employees of the commission are in the exempt service
20 under AS 39.25.110.

21 * **Sec. 22.** AS 16.43.100 is amended to read:

22 **Sec. 16.43.100. Duties and general powers.** (a) To accomplish the purposes
23 set out in AS 16.43.010, the department [COMMISSION] shall

24 (1) regulate entry into the commercial fisheries for all fishery resources
25 in the state;

26 (2) establish priorities for the application of the provisions of this
27 chapter to the various commercial fisheries of the state;

28 (3) establish administrative areas suitable for regulating and controlling
29 entry into the commercial fisheries;

30 (4) establish, for all types of gear, the maximum number of entry
31 permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

(9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the [TRANSFER AND] reissuance of entry permits to qualified transferees;

(12) provide for the [TRANSFER AND] reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) establish and administer the collection of the annual fees provided for in AS 16.43.160;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 - 16.43.390;

(16) establish reasonable user fees for services;

(17) issue landing permits under AS 16.05.675 and regulations adopted under that section;

(18) establish and collect annual fees for the issuance of landing permits that reasonably reflect the costs incurred in the administration and enforcement of provisions of law related to landing permits;

(19) establish a moratorium on entry into commercial fisheries as provided in AS 16.43.225;

(20) when requested by a regional development organization formed under former AS 44.33.895, provide to the organization, without charge, public information contained in the department's [COMMISSION'S] data with respect to relevant fisheries, including limited fisheries, fishery participants, and limited entry permit holders' harvests and earnings; and

(21) administer, when necessary to accomplish the purposes of this chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 - 16.43.521.

(b) The department [COMMISSION] may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter.

* **Sec. 23.** AS 16.43.100 is amended by adding a new subsection to read:

(c) To accomplish the purpose set out in AS 16.43.010(a), the commission shall

(1) provide for the transfer and emergency transfer of entry permits;

(2) conduct investigations and hold adjudicatory hearings and other necessary proceedings; and

(3) engage in scientific research activities and disseminate the results.

* **Sec. 24.** AS 16.43.110(a) is amended to read:

(a) The department and the commission may each adopt regulations, consistent with law, necessary or proper in the exercise of the [ITS] powers of the department or the commission or for the performance of the [ITS] duties of the department or the commission under this chapter.

* **Sec. 25.** AS 16.43.140(a) is amended to read:

(a) A person may not operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim-use permit issued by the department [COMMISSION].

* **Sec. 26.** AS 16.43.140(c) is amended to read:

(c) A person may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

(3) harvesting particular species for which separate interim-use or entry permits are issued;

(4) if authorized by regulations of the department [COMMISSION], fishing an entire unit of gear in a fishery in which the department [COMMISSION] has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold more than two entry permits for a fishery; however, the person may not

(A) fish more than one unit of gear in the fishery; or

(B) acquire a second entry permit for the fishery after the person has acquired an entry permit that authorizes the use of an entire unit of gear in the fishery;

(5) consolidation of the fishing fleet for a salmon fishery; however, a person may hold not more than two entry permits for a salmon fishery under this paragraph, but the person who holds two entry permits for a salmon fishery may not engage in fishing under the second entry permit.

* **Sec. 27.** AS 16.43.150(d) is amended to read:

(d) Failure to renew an entry permit for a period of two years from the year of last renewal results in a forfeiture of the entry permit to the department [COMMISSION], except as waived by the department [COMMISSION] for good cause. An entry permit may not be renewed until the fees for each preceding year during which the entry permit was not renewed are paid. However, failure to renew an entry permit in a year in which there is an administrative closure for the entire season for a specific fishery is good cause not to renew the entry permit. The department [COMMISSION] shall waive the payment of fees for that year.

* **Sec. 28.** AS 16.43.150(i) is amended to read:

(i) The holder of a transferable or nontransferable entry permit or of an interim-use permit may voluntarily relinquish the permit to the department [COMMISSION].

* **Sec. 29.** AS 16.43.160(a) is amended to read:

(a) Except as specifically provided in this section, the department

[COMMISSION] shall establish annual fees for the issuance and annual renewal of entry permits or interim-use permits.

* **Sec. 30.** AS 16.43.160(b) is amended to read:

(b) The **department** [COMMISSION] may charge interest at a rate not to exceed the legal rate of interest established in AS 45.45.010 on fees more than 60 days overdue.

* **Sec. 31.** AS 16.43.160(c) is amended to read:

(c) The annual base fee for issuance or renewal of an entry permit or an interim-use permit may not be less than \$30 [OR MORE THAN \$3,000]. The annual base fee must reasonably reflect the different rates of economic return for different fisheries. In addition to the annual base fee established by the **department** [COMMISSION] under this subsection, a nonresident shall pay an annual nonresident surcharge for the issuance or renewal of one or more entry permits or interim-use permits. The **department** [COMMISSION] shall establish the annual nonresident surcharge by regulation at an amount that is as close as is practicable to the maximum allowed by law.

* **Sec. 32.** AS 16.43.170(a) is amended to read:

(a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.81.231 - 44.81.250, entry permits and interim-use permits are transferable only through the commission as provided in this section and AS 16.43.180 and under regulations adopted by the commission. An involuntary transfer of an entry permit in a manner inconsistent with the statutes of this state and the regulations of the **department and the** commission is void.

* **Sec. 33.** AS 16.43.170(b) is amended to read:

(b) Except as provided in (e) of this section, the holder of an entry permit may transfer the permit to another person or to the **department** [COMMISSION] upon 60 **days'** [DAYS] notice of intent to transfer under regulations adopted by the commission. **Not** [NO] sooner than 60 days nor later than 12 months from the date of notice to the commission, the holder of an entry permit may transfer the permit. If the proposed transferee, other than the **department** [COMMISSION], can demonstrate the present ability to participate actively in the fishery and the transfer does not violate

any provision of this chapter or regulations adopted under this chapter, and if a certificate for the permit under AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the commission shall approve the transfer and reissue the entry permit to the transferee if [PROVIDED THAT] neither party is prohibited by law from participating in the transfer.

* **Sec. 34.** AS 16.43.170(g) is amended to read:

(g) A person may request the commission to transfer an entry permit due to an execution on a permit holder's interest in that permit if the execution is to enforce a lien recorded with the department [COMMISSION] under AS 25.27.230(c). The request shall be made in the form and manner provided in this chapter and regulations adopted under this chapter. The commission may deny a request for transfer of an entry permit due to an execution of a holder's interest in that permit if

(1) the execution does not comply with legal requirements or otherwise is not valid;

(2) the transfer violates this chapter or regulations adopted under this chapter;

(3) the proposed transferee or other party to the transfer is prohibited by law from participating in the transaction;

(4) a certificate for the permit under AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is in effect at the time of the proposed transfer;

(5) the proposed transferee of the entry permit, other than the department [COMMISSION], cannot demonstrate the present ability to actively participate in the fishery; or

(6) the holder of the entry permit as shown by the records of the department [COMMISSION] demonstrates, under regulations adopted by the commission, that the entry permit is a necessary means of support for the holder and those dependent on [UPON] the holder.

* **Sec. 35.** AS 16.43.170(h) is amended to read:

(h) Notwithstanding (g) of this section, the commission may not approve a request for transfer of an entry permit after an execution sale unless the parties to the transfer offer the department [COMMISSION] a right to purchase the permit at the

1 same price and on the same terms as those of that execution sale. If the **department**
2 [COMMISSION] exercises its right to purchase the permit, the permit then shall be
3 transferred to the **department** [COMMISSION].

4 * **Sec. 36.** AS 16.43.200 is amended to read:

5 **Sec. 16.43.200. Administrative areas.** (a) The **department** [COMMISSION]
6 shall establish administrative areas suitable for regulating and controlling entry into
7 the commercial fisheries. The **department** [COMMISSION] shall make the
8 administrative areas reasonably compatible with the geographic areas for which
9 specific commercial fishing regulations are adopted by the Board of Fisheries.

10 (b) The **department** [COMMISSION] may modify or change the boundaries
11 of administrative areas when necessary and consistent with the purposes of this
12 chapter.

13 * **Sec. 37.** AS 16.43.210(a) is amended to read:

14 (a) For each fishery that is not subject to a maximum number of entry permits
15 under AS 16.43.240 and not subject to a moratorium under AS 16.43.225, the
16 **department** [COMMISSION] shall issue interim-use permits under regulations
17 adopted by the **department** [COMMISSION] to all applicants who can establish their
18 present ability to participate actively in the fishery for which they are making
19 application.

20 * **Sec. 38.** AS 16.43.210(b) is amended to read:

21 (b) Before the issuance of the maximum number of entry permits for a given
22 fishery, the **department** [COMMISSION] may issue an interim-use permit to an
23 applicant who may later become eligible for an entry permit under AS 16.43.270.

24 * **Sec. 39.** AS 16.43.210(c) is amended to read:

25 (c) To the extent **authorized by** [THAT] the commissioner [OF FISH AND
26 GAME AUTHORIZES IT] under AS 16.05.050(a)(9), the **department**
27 [COMMISSION] may grant an interim-use permit to a person to engage in the
28 commercial taking from a fishery on an experimental basis.

29 * **Sec. 40.** AS 16.43.220(a) is amended to read:

30 (a) The **department** [COMMISSION] shall adopt regulations specifying the
31 dates and places of application, the procedures to be followed in renewal of the

interim-use permit including the time, place of its renewal, and for any other purpose incident to the administration of interim-use permits for that fishery. An interim-use permit shall expire upon the final determination of the holder's eligibility for an entry permit.

* **Sec. 41.** AS 16.43.225 is amended to read:

Sec. 16.43.225. Moratorium on new entrants into certain fisheries. (a)

Subject to (b) of this section, the department [COMMISSION] may establish a moratorium on new entrants into a fishery

(1) that has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) that has achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

(b) The department [COMMISSION] may establish a moratorium on new entrants into a fishery described in (a) of this section if

(1) the commissioner [OF FISH AND GAME], subject to AS 16.05.251(g), imposes [PETITIONS THE COMMISSION UNDER AS 44.62.220 TO ESTABLISH] a moratorium on new entrants into the fishery; and

(2) the department [COMMISSION] finds that

(A) the fishery has reached a level of participation that may threaten the conservation and the sustained yield management of the fishery resource and the economic health and stability of commercial fishing; and

(B) the department [COMMISSION] has insufficient information to conclude that the establishment of a maximum number of entry permits under AS 16.43.240 would further the purposes of this chapter.

(c) The department [COMMISSION] may establish a moratorium under this section for a continuous period of up to four years. A fishery that has been subject to a moratorium under this section may not be subjected to a subsequent moratorium under this section unless five years have elapsed since the previous moratorium expired.

(d) While a moratorium is in effect, the department [COMMISSION] shall conduct investigations to determine whether a maximum number of entry permits should be established under AS 16.43.240 by

(1) conducting research into conditions in the fishery;

(2) consulting with the [DEPARTMENT OF FISH AND GAME AND THE] Board of Fisheries; and

(3) consulting with participants in the fishery.

(e) The department [COMMISSION] shall establish by regulation the qualifications for applicants for an interim-use permit for a fishery subject to a moratorium under this section. The qualifications must include the minimum requirements for past or present participation and harvest in the fishery. The department [COMMISSION] may not issue an interim-use permit for a fishery subject to a moratorium under this section unless the applicant can satisfy the qualifications established under this subsection and establish the present ability and intent to participate actively in the fishery.

* **Sec. 42.** AS 16.43.227(a) is amended to read:

(a) The department [COMMISSION] may establish a moratorium on new entrants into the southeast Alaska Dungeness crab fishery for a continuous period of up to four years without complying with AS 16.43.225(a) - (c). While the moratorium is in effect, the department [COMMISSION] shall

(1) conduct the investigation required under AS 16.43.225(d);

(2) establish by regulation the qualifications for an interim-use permit for the fishery, including minimum requirements for past or present participation and harvest in the fishery; and

(3) issue interim-use permits for the fishery to applicants who satisfy the qualifications established under (2) of this subsection and who establish the present ability and intent to participate actively in the fishery.

* **Sec. 43.** AS 16.43.228(g) is amended to read:

(g) The department [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. 44.** AS 16.43.230 is amended to read:

Sec. 16.43.230. Designation of distressed fisheries. Pending the determination of maximum numbers of entry permits under AS 16.43.240 and before the initial issue of entry permits under AS 16.43.270, the department [COMMISSION] shall designate as distressed fisheries those for which it estimates that the optimum number of entry permits will be less than the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973.

* **Sec. 45.** AS 16.43.240(b) is amended to read:

(b) When the department [COMMISSION] finds that a fishery, not designated as a distressed fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has reached levels of participation that require the limitation of entry under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the department [COMMISSION] shall establish the maximum number of entry permits for that fishery.

* **Sec. 46.** AS 16.43.240(c) is amended to read:

(c) When the department [COMMISSION] finds that a fishery subject to a moratorium under AS 16.43.225 has reached levels of participation that require the limitation of entry under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the department [COMMISSION] shall establish the maximum number of entry permits for that fishery.

* **Sec. 47.** AS 16.43.250 is amended to read:

Sec. 16.43.250. Standards for initial issue of entry permits. (a) Following the establishment of the maximum number of units of gear for a particular fishery under AS 16.43.240, the department [COMMISSION] shall adopt regulations establishing qualifications for ranking applicants for entry permits according to the degree of hardship that they would suffer by exclusion from the fishery. The regulations shall define priority classifications of similarly situated applicants based on [UPON] a reasonable balance of the following hardship standards:

(1) degree of economic dependence on [UPON] the fishery, including,

1 when reasonable for the fishery, the percentage of income derived from the fishery,
2 reliance on alternative occupations, availability of alternative occupations, **and**
3 investment in vessels and gear;

4 (2) extent of past participation in the fishery, including, when
5 reasonable for the fishery, the number of years of participation in the fishery, and the
6 consistency of participation during each year.

7 (b) The **department** [COMMISSION] shall designate in the regulations those
8 priority classifications of applicants who would suffer significant economic hardship
9 by exclusion from the fishery.

10 (c) The **department** [COMMISSION] shall designate in the regulations those
11 priority classifications of applicants who would suffer only minor economic hardship
12 by exclusion from the fishery.

13 (d) If an individual eligible to apply under AS 16.43.260(a) has applied during
14 application periods established under AS 16.43.260(b) for two or more entry permits
15 under AS 16.43.260(d) or (e) for the same specific fishery resource and the same
16 specific type of gear in different administrative areas, but has failed to qualify for an
17 entry permit for that type of fishery resource and gear, the individual's cumulative
18 qualifications may be credited to the fishery for which the individual is most qualified.
19 The **department** [COMMISSION] shall issue an entry permit to the individual for the
20 fishery if the individual's cumulative qualifications result in placing the individual in a
21 category designated in (b) of this section. The qualifications credited to a fishery under
22 this subsection may not be considered for the purpose of ranking the applicant under
23 (a) - (c) of this section for any other fishery. The **department** [COMMISSION] may
24 not revoke any permit previously issued notwithstanding the issuance of permits in
25 excess of the maximum number established under AS 16.43.230 - 16.43.240 as a
26 result of this subsection. In this subsection, "fishery" includes all salmon fisheries of
27 the state for which a maximum number of entry permits has been established by the
28 **department** [COMMISSION] under AS 16.43.240(b).

29 (e) If the cumulative qualifications of an individual under (d) of this section
30 include points granted by the **department** [COMMISSION] under (a) of this section
31 for more than one fishery and the number of points required to place an applicant in

the priority classification under (b) of this section is not the same for each of the fisheries, the department [COMMISSION] shall obtain a quotient for the individual by dividing the number of points the individual has been granted for each fishery by the number of points needed to place an applicant in a priority classification under (b) of this section for that fishery. If the sum of the quotients obtained under this subsection equals or exceeds 1.00, the individual is entitled to a permit under (d) of this section.

* **Sec. 48.** AS 16.43.260(a) is amended to read:

(a) The department [COMMISSION] shall accept applications for entry permits only from applicants who have harvested fishery resources commercially while participating in the fishery as holders of gear licenses issued under former AS 16.05.536 - 16.05.670 or interim-use permits under AS 16.43.210(a) or 16.43.225 before the qualification date established in (d), (e), or (f) of this section. The department [COMMISSION] may specify by regulation the calendar years of participation that will be considered for eligibility purposes.

* **Sec. 49.** AS 16.43.260(b) is amended to read:

(b) The department [COMMISSION] shall establish the opening and closing dates, places, and form of application for entry permits for each fishery. The department [COMMISSION] may require the submission of specific verified evidence establishing the applicant's qualifications under the regulations adopted under AS 16.43.250.

* **Sec. 50.** AS 16.43.260(c) is amended to read:

(c) When an applicant is unable to establish qualifications for an entry permit by submitting the specific verified evidence required in the application by the department [COMMISSION], the applicant may request and obtain an administrative adjudication of the application according to the procedures established in AS 16.43.110(b). At the hearing the applicant may present alternative evidence of qualifications for an entry permit.

* **Sec. 51.** AS 16.43.260(e) is amended to read:

(e) Except as provided in (f) of this section, when the department [COMMISSION] establishes the maximum number of entry permits for a particular

fishery under AS 16.43.240 [AFTER JANUARY 1, 1975], an applicant shall be assigned to a priority classification based solely on [UPON] the applicant's qualifications as of January 1 of the year during which the department [COMMISSION] establishes the maximum number of entry permits for the fishery for which application is made.

* **Sec. 52.** AS 16.43.260(f) is amended to read:

(f) When the department [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 on [UPON] the applicant's qualifications as of the effective date of the statute or regulation establishing the moratorium.

* **Sec. 53.** AS 16.43.270(a) is amended to read:

(a) The department [COMMISSION] shall issue entry permits, for each fishery, first to all qualified applicants in the priority classifications designated under AS 16.43.250(b) and then to qualified applicants in order of descending priority classification, until the number of entry permits issued equals the maximum number of entry permits established under AS 16.43.230 and 16.43.240 for each fishery, except that a person within a priority classification specified under AS 16.43.250(b) may not be denied an entry permit.

* **Sec. 54.** AS 16.43.270(b) is amended to read:

(b) If, within the lowest priority classification of qualified applicants to which some entry permits may be issued, there are more applicants than there are entry permits to be issued, then the allocation of entry permits within that priority classification shall be by lottery. However, the department [COMMISSION] shall issue entry permits to all qualified applicants in that priority classification if the total number of permits issued for the fishery does not exceed the maximum number of entry permits established under AS 16.43.240 for that fishery by more than five percent or 10 permits, whichever is greater.

* **Sec. 55.** AS 16.43.270(d) is amended to read:

(d) The department [COMMISSION] may restrict the fishing capacity employed under an entry permit if, before the initial issuance of entry permits for a

fishery, the department [COMMISSION] determines that the fishing capacity in the fishery must be limited to achieve the purposes of this chapter, establishes criteria for determining the fishing capacity that is allowed under an entry permit, and establishes how fishing capacity will be measured. The maximum fishing capacity allowed under an entry permit must be based on [UPON] past participation in the fishery by the initial recipient of the entry permit during a period, specified by the department [COMMISSION], preceding the qualification date established under AS 16.43.260. The department [COMMISSION] may define fishing capacity in terms of quantity of fishing gear, a proportion of the maximum amount of gear that can be utilized in the fishery under regulations of the Board of Fisheries, fishing vessel size or other characteristics, or other factors determined by the department [COMMISSION] to affect the amount of fishing effort in the fishery. The recipient or transferee of an entry permit issued subject to this subsection may not exceed the fishing capacity allowed under the entry permit.

* **Sec. 56.** AS 16.43.290 is amended to read:

Sec. 16.43.290. Optimum number of entry permits. Following the issuance of entry permits under AS 16.43.270, the department [COMMISSION] shall establish the optimum number of entry permits for each fishery based on [UPON] a reasonable balance of the following general standards:

(1) the number of entry permits sufficient to maintain an economically healthy fishery that will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear;

(2) the number of entry permits necessary to harvest the allowable commercial take of the fishery resource during all years in an orderly, efficient manner, and consistent with sound fishery management techniques;

(3) the number of entry permits sufficient to avoid serious economic hardship to those currently engaged in the fishery, considering other economic opportunities reasonably available to them.

* **Sec. 57.** AS 16.43.300 is amended to read:

Sec. 16.43.300. Revisions of optimum number of entry permits. (a) The

department [COMMISSION] may increase or decrease the optimum number of entry permits for a fishery when one or more of the following conditions makes a change desirable considering the purposes of this chapter:

(1) an established long-term change in the biological condition of the fishery has occurred that substantially alters the optimum number of entry permits permissible applying the standards set out in AS 16.43.290;

(2) an established long-term change in market conditions has occurred, directly affecting the fishery, that substantially alters the optimum number of entry permits permissible under the standards set out in AS 16.43.290.

(b) If the department [COMMISSION] decreases the optimum number of entry permits for a fishery, the number of entry permits may be reduced only under the voluntary buy-back provisions set out in AS 16.43.310 and 16.43.320.

* **Sec. 58.** AS 16.43.310 is amended to read:

Sec. 16.43.310. Establishment of buy-back funds and permit buy-back assessments. (a) When the optimum number of entry permits is less than the number of entry permits outstanding in a fishery, the department [COMMISSION] may establish a buy-back program, a buy-back plan, and a buy-back fund for that fishery.

(b) The department [COMMISSION] may establish by regulation a permit buy-back assessment for each fishery for which the department [COMMISSION] has established a buy-back fund under (a) of this section. The amount of the assessment may not exceed seven percent of the value, as defined in AS 43.75.290, of fish that a permit holder in the fishery subject to the assessment removes from the state or transfers to a buyer in the state. The Department of Revenue shall collect an assessment established under this subsection.

(c) The department [COMMISSION] shall expend money appropriated to a buy-back fund for the purpose of reducing the number of entry permits in the fishery to the optimum number, at a rate to be established by the department [COMMISSION]. The legislature may appropriate interest accrued on the money in a buy-back fund to that fund. Except as provided in AS 16.43.320, money appropriated to a buy-back fund does not lapse.

* **Sec. 59.** AS 16.43.320 is amended to read:

1 **Sec. 16.43.320. Administration of the buy-back program.** The department
2 [COMMISSION] shall adopt regulations providing for the purchase of transferable
3 entry permits with money in the buy-back fund for each fishery. The department
4 [COMMISSION] shall cease purchases of entry permits in a fishery when the number
5 of entry permits in the fishery has been reduced to the optimum number. The
6 department [COMMISSION] shall terminate a buy-back assessment established for a
7 fishery under AS 16.43.310(b) when the department [COMMISSION] determines
8 that the amount of revenue collected through the assessment is sufficient to purchase
9 the number of entry permits necessary to achieve the optimum number of entry
10 permits in the fishery and to offset the reasonable costs of the buy-back program for
11 the fishery, including repayment of any debt the department [COMMISSION] was
12 authorized to incur to capitalize the buy-back fund for the fishery. The unexpended
13 balance of appropriations made to a buy-back fund for a fishery shall lapse back into
14 the fund from which the money was appropriated at the end of the fiscal year in which
15 the buy-back program is terminated.

16 * **Sec. 60.** AS 16.43.330(a) is amended to read:

17 (a) When the number of outstanding entry permits for a fishery is less than the
18 optimum number established under AS 16.43.290, the department [COMMISSION]
19 shall issue new entry permits to applicants who are presently able to engage actively in
20 the fishery until the optimum number is reached.

21 * **Sec. 61.** AS 16.43.330(b) is amended to read:

22 (b) The department [COMMISSION] shall determine equitable methods of
23 issuance, as appropriate, under (a) of this section that assure the receipt of fair market
24 value for the permits issued.

25 * **Sec. 62.** AS 16.43.340(a) is amended to read:

26 (a) In addition to entry permits and interim-use permits, the department
27 [COMMISSION] may issue educational entry permits to public, private, or
28 denominational educational institutions accredited by the Department of Education
29 and Early Development or accredited institutions, career, or vocational programs
30 approved by the Alaska Commission on Postsecondary Education, or full-time
31 nonprofit residential child care facilities licensed by the Department of Health and

Social Services, division of social services, if

(1) the program is offered to students at the junior high school level or above;

(2) the issuance of an educational entry permit is reasonably necessary to the instruction of students under courses offered by the applicant for the educational entry permit;

(3) the program is offered by an institution that is located in the state and has been in operation for at least two years; and

(4) the institution offering the program is not a correspondence institution.

* **Sec. 63.** AS 16.43.340(c) is amended to read:

(c) The department [COMMISSION] may issue educational entry permits notwithstanding the establishment of maximum or optimum numbers under AS 16.43.240 and 16.43.290.

* **Sec. 64.** AS 16.43.351(b) is amended to read:

(b) A recipient may be issued an educational entry permit valid for designated fisheries in the administrative area the department [COMMISSION] determines to be appropriate, considering the nature of the educational program and the location of the educational or vocational institution. The recipient of an educational entry permit may not be issued an educational entry permit in more than one administrative area except as issued by the department [COMMISSION] in its discretion upon good cause shown.

* **Sec. 65.** AS 16.43.351(d) is amended to read:

(d) Annual fees for educational entry permits shall be as specified by department [COMMISSION] regulation under the authority of AS 16.43.160.

* **Sec. 66.** AS 16.43.371 is amended to read:

Sec. 16.43.371. Accounting of harvest. The recipient of an educational entry permit shall report to the department [COMMISSION] costs and earnings, amount of harvest, and other information the department [COMMISSION] requires to monitor training programs of recipients of educational entry permits.

* **Sec. 67.** AS 16.43.381(b) is amended to read:

(b) The department [COMMISSION] shall adopt regulations relating to the issuance of educational entry permits, establishing eligibility criteria for recipients of the permits, and [SUCH] other matters as are reasonably necessary to implement AS 16.43.340 - 16.43.390.

* **Sec. 68.** AS 16.43.400 is amended to read:

Sec. 16.43.400. Special harvest area entry permits. (a) In addition to entry permits, interim-use permits, and educational permits, the department [COMMISSION] may issue special harvest area entry permits to holders of private, nonprofit hatchery permits issued by the department [DEPARTMENT OF FISH AND GAME] under AS 16.10.400 - 16.10.475.

(b) The department [COMMISSION] may issue special harvest area entry permits notwithstanding the establishment of maximum or optimum numbers under AS 16.43.240 and 16.43.290.

* **Sec. 69.** AS 16.43.410(c) is amended to read:

(c) The annual fee for a special harvest area entry permit shall be specified by department [COMMISSION] regulation under the authority of AS 16.43.160.

* **Sec. 70.** AS 16.43.440(b) is amended to read:

(b) The department [COMMISSION, AFTER CONSULTATION WITH THE DEPARTMENT OF FISH AND GAME,] shall adopt regulations that are reasonably necessary to implement AS 16.43.400 - 16.43.440.

* **Sec. 71.** AS 16.43.451 is amended to read:

Sec. 16.43.451. Bering Sea hair crab fishery vessel permit system. (a) The department [COMMISSION] may establish a vessel permit system under AS 16.43.451 - 16.43.521 for the Bering Sea hair crab fishery if the department [COMMISSION] determines that

(1) the regulation of entry into the fishery is necessary to achieve the purposes of this chapter;

(2) a vessel permit system would achieve the purposes of this chapter;

and

(3) either

(A) limiting the number of participants in the fishery under

AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

(B) regulating the number of vessels in the fishery would enable the state to gain or retain management of the fishery.

(b) If the federal government has delegated management authority in the United States exclusive economic zone to the state for the Bering Sea hair crab fishery, the department [COMMISSION] may, to the extent consistent with this chapter, adopt regulations to ensure that the vessel permit system is consistent with applicable federal laws.

(c) If the department [COMMISSION] establishes a vessel permit system for a fishery that involves more than one fishery resource, type of gear, or administrative area, the department [COMMISSION] may limit, as the department [COMMISSION] determines appropriate, the fishery resources that may be harvested under the vessel permit, the types of gear that may be used under the vessel permit, or the areas where fishing may occur under the vessel permit. The department [COMMISSION] shall adopt criteria, as appropriate, for determining

(1) how restrictions on fishery resources, types of gear, and areas fished are established for individual vessel interim-use permits and vessel entry permits; and

(2) how eligibility to take a particular fishery resource, to use a particular type of gear, or to fish in a particular area is established.

(d) The department [COMMISSION] may [, AFTER CONSULTATION WITH THE DEPARTMENT OF FISH AND GAME,] regulate the fishing capacity or effort authorized under a vessel interim-use permit or a vessel entry permit if the department [COMMISSION] finds that limitations on fishing capacity or effort are necessary to achieve the purposes of this chapter. The department [COMMISSION] shall adopt criteria, as appropriate, for measuring the fishing capacity or effort of a vessel and for determining how restrictions on vessel fishing capacity or effort are established for individual vessel interim-use permits and vessel entry permits. The criteria may be based on past participation.

(e) The department [COMMISSION] shall adopt regulations limiting the number of vessel permits that may be held by a permit holder or group of related permit holders if the department [COMMISSION] finds that limiting the number of

vessel permits that may be held by a permit holder or group of related permit holders is necessary to prevent the excessive concentration of ownership of vessel permits in the fishery.

(f) By February 1 of the filing year, the department [COMMISSION] shall submit a biennial report to the governor and the legislature concerning the harvest and earnings of the vessel-based limited entry fisheries system for the Bering Sea hair crab during the preceding two years. The department [COMMISSION] shall notify the legislature that the report is available.

* **Sec. 72.** AS 16.43.461 is amended to read:

Sec. 16.43.461. Initial issuance of vessel permits. (a) For the fishery that the department [COMMISSION] establishes a vessel permit system for under AS 16.43.451, the department [COMMISSION] shall establish qualifications for vessel interim-use permits and vessel entry permits. The qualifications may include a qualification date, eligibility period, recent and past participation requirements, and minimum requirements for the nature and degree of ownership interest that a permit holder must have in a vessel in order to receive a vessel permit for the vessel, and criteria for receiving transferable and nontransferable vessel entry permits. In adopting qualifications for transferable and nontransferable vessel entry permits, the department [COMMISSION] shall consider

(1) information provided by the commission [DEPARTMENT OF FISH AND GAME], participants in the fishery, owners of vessels and gear used in the fishery, and other interested parties;

(2) the level of recent and past participation and harvest in the fishery, the nature of the fishery, and the need to ensure the manageability of the fishery and conservation of the fishery resource.

(b) If the department [COMMISSION] establishes a vessel permit system under AS 16.43.451 for a fishery that was subject to a moratorium on entry of new vessels under former AS 16.43.901, the department [COMMISSION] shall incorporate some or all of the vessel eligibility criteria established for the moratorium into the eligibility criteria for vessel permits issued under the vessel permit system.

(c) Pending the issuance of vessel entry permits for a fishery for which the

department [COMMISSION] has established a vessel permit system under AS 16.43.451, the department [COMMISSION] shall issue a vessel interim-use permit to the owner of each vessel that the department [COMMISSION] finds is potentially eligible to receive a vessel entry permit. A vessel interim-use permit is renewable from year to year; however, a vessel interim-use permit expires at the end of the period for which the permit was issued and may not be renewed after a final determination by the department [COMMISSION] that the vessel is or is not eligible for a vessel entry permit.

(d) The department [COMMISSION] shall issue vessel entry permits for a fishery, subject to conditions established by the department [COMMISSION] under AS 16.43.451 - 16.43.521, to the owner of each vessel that the department [COMMISSION] finds is eligible to receive a vessel entry permit for that fishery.

(e) The department [COMMISSION] shall adopt regulations regarding

(1) the determination of which person or entity is eligible to receive a vessel interim-use permit or a vessel entry permit for a vessel in the event of competing claims to ownership of the vessel; and

(2) the substitution of another vessel by the applicant for a vessel interim-use permit or a vessel entry permit if the vessel or vessels used to establish eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel owner, before the initial issuance of a vessel entry permit for the vessel.

* **Sec. 73.** AS 16.43.471 is amended to read:

Sec. 16.43.471. Optimum number range of vessel permits. (a) If, after the initial issuance of vessel entry permits for the Bering Sea hair crab fishery, the department [COMMISSION] determines that a long-term biological or economic change has occurred in the fishery, the department [COMMISSION], in consultation with the commission [DEPARTMENT OF FISH AND GAME], shall establish the optimum number range of vessel entry permits for the fishery.

(b) In determining the optimum number range of vessel entry permits, the department [COMMISSION] shall seek to

(1) facilitate sound management of the fishery;

(2) promote

- (A) the economic health and stability of the fishery;
(B) broad access to the fishery;
(C) conservation of the fish resources taken in the fishery;
(D) quality seafood products; and

(3) discourage waste of harvested fish.

(c) The **department** [COMMISSION] may increase or decrease the optimum number range of vessel entry permits for a fishery if the **department** [COMMISSION] finds that an established long-term change in the biological or economic condition of the fishery has occurred and that the number of vessel entry permits that are necessary to achieve the goals set out in (b) of this section has substantially changed.

(d) If the optimum number range of vessel entry permits is less than the number of outstanding vessel permits for the fishery, the **department** [COMMISSION] may adopt regulations to allow the voluntary consolidation of vessel entry permits by permit holders, including entities. The **department** [COMMISSION] may investigate procedures to permanently reduce the number of vessel permits issued for a fishery to within the optimum number range.

(e) If the optimum number range of vessel entry permits is greater than the number of permits authorized for the fishery, the **department** [COMMISSION] shall issue additional vessel entry permits until the number of vessel entry permits is consistent with the optimum number range for the fishery. The **department** [COMMISSION] shall obtain fair market value for new vessel entry permits issued under this subsection. The **department** [COMMISSION] shall determine whether the additional vessel entry permits issued under this subsection are transferable or nontransferable.

* **Sec. 74.** AS 16.43.481(c) is amended to read:

(c) The **department** [COMMISSION] shall adopt regulations relating to the expiration of nontransferable vessel entry permits.

* **Sec. 75.** AS 16.43.501(c) is amended to read:

(c) Failure to renew a vessel entry permit for two consecutive years from the year of last renewal results in a forfeiture of the permit unless the forfeiture is waived

by the department [COMMISSION] for good cause. If an administrative closure of a fishery occurs for an entire season, the department [COMMISSION] may not count the season toward the two-year period.

* **Sec. 76.** AS 16.43.511 is amended to read:

Sec. 16.43.511. Vessel permit fees. (a) The department [COMMISSION] shall establish fees for the issuance and annual renewal of vessel interim-use permits and vessel entry permits. Annual fees established under this subsection [MAY NOT EXCEED \$2,500 AND] shall reasonably reflect the rate of economic return for the fishery.

(b) The department [COMMISSION] shall waive the payment of the annual fees for a vessel interim-use permit or a vessel entry permit for a fishery in which there was an administrative closure for the entire season.

(c) Subject to AS 37.10.050(a), the department [COMMISSION] may establish fees for processing applications for vessel interim-use permits and vessel entry permits, for transfer of vessel entry permits, and for permanent and temporary substitution of vessels.

(d) The department [COMMISSION] may charge interest at a rate not to exceed the legal rate of interest established in AS 45.45.010(a) on fees established under the section that are more than 60 days overdue.

* **Sec. 77.** AS 16.43.521(b) is amended to read:

(b) A person or entity may not hold more than one vessel entry permit for the Bering Sea hair crab fishery unless

(1) the number of vessel entry permits held by the person or entity is consistent with regulations of the department [COMMISSION] regarding concentration of ownership of vessel permits in the fishery; and

(2) either

(A) the person or entity qualified for each vessel entry permit at the time of the initial issuance of vessel entry permits for the fishery; or

(B) the vessel entry permits are issued for a vessel for which the person or entity already holds another vessel entry permit for that fishery.

* **Sec. 78.** AS 16.43.521(d) is amended to read:

(d) A vessel interim-use permit and a vessel entry permit constitute a use privilege that may be modified or revoked by order of the department [COMMISSION] or by law without compensation.

* **Sec. 79.** AS 16.43.521(h) is amended to read:

(h) Nothing in AS 16.43.451 - 16.43.521 limits the powers of the Board of Fisheries or the department [DEPARTMENT OF FISH AND GAME].

* **Sec. 80.** AS 16.43.521(i) is amended to read:

(i) Notwithstanding AS 16.05.815 and AS 16.43.975, the department [COMMISSION] may release to the owner of a vessel information on the vessel's history of harvests in a fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit under AS 16.43.451 - 16.43.521.

* **Sec. 81.** AS 16.43.850(a) is amended to read:

(a) For the purpose of identifying frequent violators of commercial fishing laws in salmon fisheries, the department [COMMISSION] shall adopt regulations establishing a uniform system for the suspension of commercial salmon fishing privileges by assigning demerit points for convictions for violations of commercial fishing laws in salmon fisheries that are reported to the department [COMMISSION] under AS 16.43.880. The department [COMMISSION] shall assess demerit points against a permit holder for each violation of commercial fishing laws in a salmon fishery in accordance with (b) and (c) of this section. The department [COMMISSION] shall assess points against a permit holder for the salmon fishery in which the violation of commercial fishing laws occurred.

* **Sec. 82.** AS 16.43.850(b) is amended to read:

(b) The department [COMMISSION] shall assess demerit points against a permit holder for a conviction of a violation of commercial fishing laws in a salmon fishery under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 - 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 - 16.10.220, and 16.10.760 - 16.10.790 for the following violations in accordance with this schedule:

- (1) fishing in closed waters 6 points;
- (2) fishing during closed season or period 6 points;
- (3) fishing with more than the legal amount of gear 4 points;

- (4) fishing with gear not allowed in fishery 6 points;
(5) fishing before expiration of transfer period 6 points;
(6) interfering with commercial fishing gear 4 points;
(7) fishing with more than the legal amount of gear on vessel 4 points;
(8) improper operation of fishing gear 4 points;
(9) permit holder not present when required 4 points;
(10) fishing with underlength or overlength vessel 6 points;
(11) wanton waste of fishery resources 4 points.

* **Sec. 83.** AS 16.43.850(d) is amended to read:

(d) The **department** [COMMISSION] shall suspend a permit holder's commercial salmon fishing privileges for a salmon fishery for a period of

(1) one year if the permit holder accumulates 12 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery;

(2) two years if the permit holder accumulates 16 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery;

(3) three years if the permit holder accumulates 18 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery.

* **Sec. 84.** AS 16.43.855(c) is amended to read:

(c) The assessment of points against a permit holder by the **department** [COMMISSION] under AS 16.43.850 - 16.43.895 is in addition to, and not in substitution for, other provisions of this title and is not a substitute for any penalty imposed by a court.

* **Sec. 85.** AS 16.43.855(d) is amended to read:

(d) If points are assessed against a permit holder who holds a commercial fishing permit for a salmon fishery under an emergency transfer approved by the **department** [COMMISSION] under AS 16.43.180, the same number of points shall also be assessed against the transferor of the permit. Points assessed against the transferor of the permit under this subsection shall be included in calculations made

under AS 16.43.850(d).

* **Sec. 86.** AS 16.43.860(a) is amended to read:

(a) A permit holder whose commercial salmon fishing privileges for a salmon fishery are suspended under AS 16.43.850 - 16.43.895 may not obtain an entry permit or interim-use permit for that salmon fishery during the period of the suspension of the privileges. During the period for which the permit holder's privilege to obtain an entry permit or interim-use permit for a salmon fishery is suspended under this section, the department [COMMISSION] may not issue a permit card to the permit holder for that fishery.

* **Sec. 87.** AS 16.43.860(c) is amended to read:

(c) If, during the period for which a permit holder's commercial fishing privileges for a salmon fishery are suspended, the department [COMMISSION] establishes a limited entry system for the salmon fishery, the permit holder shall be eligible to obtain an entry permit for that fishery to the extent that the permit holder qualifies for the entry permit under regulations adopted by the department [COMMISSION]. If the permit holder qualifies for an entry permit for the fishery, the department [COMMISSION] shall withhold issuance of the entry permit until the period of the suspension imposed under AS 16.43.850 - 16.43.895 has expired.

* **Sec. 88.** AS 16.43.870 is amended to read:

Sec. 16.43.870. Notice and appeal. The department [COMMISSION] shall provide notice of determinations of the department [COMMISSION] under AS 16.43.850 - 16.43.895. Respondents may request a hearing under AS 16.43.110(b) [REGULATIONS ADOPTED BY THE COMMISSION UNDER AS 16.43.110].

* **Sec. 89.** AS 16.43.880(a) is amended to read:

(a) A court that convicts a person of a violation of commercial fishing laws under this title or under a regulation adopted under this title in a salmon fishery shall forward a record of the conviction to both the department and the commission on a weekly basis.

* **Sec. 90.** AS 16.43.955 is amended to read:

Sec. 16.43.955. Hearings in proximity to Board of Fisheries meetings.
When practicable, a department [COMMISSION] hearing that deals with the subject

of limiting entry to a fishery shall be held on the same dates on which, and in the same building or in a building adjacent to the building in which, a Board of Fisheries meeting is being held.

* **Sec. 91.** AS 16.43.960(a) is amended to read:

(a) The department [COMMISSION] may revoke, suspend, or transfer all entry or interim-use permits, vessel entry permits, or vessel interim-use permits held by a person or entity who knowingly provides or assists in providing false information, or fails to correct false information provided to the department [COMMISSION] for the purpose of obtaining a benefit for self or another, including the issuance, renewal, duplication, or transfer of an entry or interim-use permit, vessel license, vessel entry permit, or vessel interim-use permit. The department [COMMISSION] may suspend, as appropriate, that person's or entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or vessel interim-use permit for a period not to exceed three years, and may impose an administrative fine of not more than \$5,000 on the person or entity whose officers, employees, representatives, or agents knowingly provide or assist in providing false information, or fail to correct false information provided, to the department [COMMISSION] for the purpose of obtaining a benefit.

* **Sec. 92.** AS 16.43.960(a), as amended by sec. 6, ch. 2, SLA 2014, is amended to read:

(a) The department [COMMISSION] may revoke, suspend, or transfer all entry or interim-use permits held by a person who knowingly provides or assists in providing false information, or fails to correct false information provided to the department [COMMISSION] for the purpose of obtaining a benefit for self or another, including the issuance, renewal, duplication, or transfer of an entry or interim-use permit or vessel license. The department [COMMISSION] may suspend that person's eligibility to hold an entry or interim-use permit for a period not to exceed three years, and may impose an administrative fine of not more than \$5,000 on the person. The department [COMMISSION] may also impose an administrative fine of not more than \$5,000 on an entity whose officers, employees, representatives, or agents knowingly provide or assist in providing false information, or fail to correct false information provided, to the department [COMMISSION] for the purpose of

obtaining a benefit.

* **Sec. 93.** AS 16.43.960(g) is amended to read:

(g) The provisions of this section [APPLY TO CONDUCT OCCURRING AFTER JANUARY 1, 1973, BUT] do not affect a permit held by a person who is a bona fide purchaser. Failure to correct false information is a continuing offense.

* **Sec. 94.** AS 16.43.960(i) is amended to read:

(i) An entry permit revoked by the department [COMMISSION] under this section that is pledged as security for a loan under AS 16.10.333 or AS 44.81.231 shall be reassigned or sold as provided in AS 16.10.337 or AS 44.81.250.

* **Sec. 95.** AS 16.43.960(j) is amended to read:

(j) The department [COMMISSION] shall immediately cancel a limited entry permit card issued to a debtor under a loan made under AS 16.10.300 - 16.10.370 when the department [COMMISSION] receives a certificate of loan termination containing a copy of the

(1) notice required by AS 16.10.335(a); or

(2) notice that, if the debtor has filed bankruptcy, the automatic stay issued is no longer in effect and the debtor has not reaffirmed the debt.

* **Sec. 96.** AS 16.43.970(a) is amended to read:

(a) A person who violates a provision of this chapter or a regulation adopted under this chapter or an entity that violates a provision of AS 16.43.451 - 16.43.521 or a regulation adopted under AS 16.43.451 - 16.43.521 is, upon conviction, guilty of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a first conviction, and a fine of not more than \$10,000 for a second or third conviction. Upon a first or second conviction under this subsection, the court may in its discretion also order the department [COMMISSION] to suspend the commercial fishing privileges of the person or entity for a period of not more than three years and to revoke one or more or all commercial fishing permits held by the person or entity. Upon a third or subsequent conviction under this subsection, the person or entity is also subject to a loss of commercial fishing privileges as provided under (i) of this section. This subsection does not apply to violations of AS 16.43.140(a).

* **Sec. 97.** AS 16.43.970(a), as amended by sec. 8, ch. 2, SLA 2014, is amended to read:

(a) A person who violates a provision of this chapter or a regulation adopted under this chapter is, upon conviction, guilty of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a first conviction, and a fine of not more than \$10,000 for a second or third conviction. Upon a first or second conviction under this subsection, the court may in its discretion also order the department [COMMISSION] to suspend the commercial fishing privileges of the person for a period of not more than three years and to revoke one or more or all commercial fishing permits held by the person. Upon a third or subsequent conviction under this subsection, the person is also subject to a loss of commercial fishing privileges as provided under (i) of this section. This subsection does not apply to violations of AS 16.43.140(a).

* **Sec. 98.** AS 16.43.970(b) is amended to read:

(b) A person or entity who knowingly makes a false statement to the department or the commission for the purpose of obtaining a benefit, including the issuance, renewal, duplication, or transfer of an entry or interim-use permit, vessel license, vessel interim-use permit, or vessel entry permit, or a person who assists another by knowingly making a false statement to the department or the commission for the purpose of obtaining a benefit for another, is guilty of the crime of unsworn falsification in the second degree as set out in AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of commercial fishing privileges and revocation of commercial fishing permits under (i) of this section.

* **Sec. 99.** AS 16.43.970(b), as amended by sec. 10, ch. 2, SLA 2014, is amended to read:

(b) A person who knowingly makes a false statement to the department or the commission for the purpose of obtaining a benefit, including the issuance, renewal, duplication, or transfer of an entry or interim-use permit or vessel license or a person who assists another by knowingly making a false statement to the department or the commission for the purpose of obtaining a benefit for another, is guilty of the crime of unsworn falsification in the second degree as set out in AS 11.56.210. Upon conviction, the person is also subject to suspension of commercial fishing privileges and revocation of commercial fishing permits under (i) of this section.

* **Sec. 100.** AS 16.43.970(e) is amended to read:

(e) Notwithstanding any other provision of this section, an interim-use or entry permit or transferable vessel entry permit may not be transferred while under suspension, without the consent of the department [COMMISSION].

* **Sec. 101.** AS 16.43.970(e), as amended by sec. 14, ch. 2, SLA 2014, is amended to read:

(e) Notwithstanding any other provision of this section, an interim-use or entry permit may not be transferred while under suspension, without the consent of the department [COMMISSION].

* **Sec. 102.** AS 16.43.970(i) is amended to read:

(i) Upon the conviction of a person or entity for an offense described under (a), (b), or (g) of this section, the court shall immediately notify the department [COMMISSION] of the conviction. The notice provided by the court shall be accompanied by an order suspending commercial fishing privileges and revoking commercial fishing permits under (a) of this section, as appropriate. The department [COMMISSION] shall, upon receipt of

(1) an order from the court under (a) of this section, suspend the commercial fishing privileges of a person or entity for the period set by the court and revoke commercial fishing permits held by the person or entity as directed by the court;

(2) a notice from the court that a person or entity has been convicted of a third or subsequent violation of (a) of this section, suspend all commercial fishing privileges of the person or entity for a period of three years from the date of conviction and revoke all commercial fishing permits held by the person or entity;

(3) a notice from the court that a person or entity has been convicted of a violation described under (b) of this section, suspend all commercial fishing privileges of the person or entity for a period of three years from the date of conviction and revoke all commercial fishing permits held by the person or entity;

(4) a notice from the court that a person has been convicted of a violation described under (g)(1) of this section, suspend all commercial fishing privileges of the person for a period of one year from the date of conviction;

(5) a notice from the court that a person has been convicted of a violation described under (g)(2) of this section, suspend all commercial fishing

1 privileges of the person for a period of two years from the date of conviction;

2 (6) a notice from the court that a person has been convicted of a
3 violation described under (g)(3) of this section, suspend all commercial fishing
4 privileges of the person for a period of five years from the date of conviction.

5 * **Sec. 103.** AS 16.43.970(i), as amended by sec. 16, ch. 2, SLA 2014, is amended to read:

6 (i) Upon the conviction of a person for an offense described under (a), (b), or
7 (g) of this section, the court shall immediately notify the department
8 [COMMISSION] of the conviction. The notice provided by the court shall be
9 accompanied by an order suspending commercial fishing privileges and revoking
10 commercial fishing permits under (a) of this section, as appropriate. The department
11 [COMMISSION] shall, upon receipt of

12 (1) an order from the court under (a) of this section, suspend the
13 commercial fishing privileges of a person for the period set by the court and revoke
14 commercial fishing permits held by the person as directed by the court;

15 (2) a notice from the court that a person has been convicted of a third or
16 subsequent violation of (a) of this section, suspend all commercial fishing privileges of
17 the person for a period of three years from the date of conviction and revoke all
18 commercial fishing permits held by the person;

19 (3) a notice from the court that a person has been convicted of a
20 violation described under (b) of this section, suspend all commercial fishing privileges
21 of the person for a period of three years from the date of conviction and revoke all
22 commercial fishing permits held by the person;

23 (4) a notice from the court that a person has been convicted of a
24 violation described under (g)(1) of this section, suspend all commercial fishing
25 privileges of the person for a period of one year from the date of conviction;

26 (5) a notice from the court that a person has been convicted of a
27 violation described under (g)(2) of this section, suspend all commercial fishing
28 privileges of the person for a period of two years from the date of conviction;

29 (6) a notice from the court that a person has been convicted of a
30 violation described under (g)(3) of this section, suspend all commercial fishing
31 privileges of the person for a period of five years from the date of conviction.

1 * **Sec. 104.** AS 16.43.975 is amended to read:

2 **Sec. 16.43.975. Public disclosure of certain documents prohibited.**

3 Documents submitted to the department or the commission containing information
4 relating to an individual's personal finances and information supplied by individuals
5 for research purposes, produced in response to requests by the department or the
6 commission, are not subject to public disclosure.

7 * **Sec. 105.** AS 16.43.980(a) is amended to read:

8 (a) The department [COMMISSION] shall prepare an annual report and
9 notify the legislature that it is available. The report must include but not be limited to
10 the following:

11 (1) a progress report on the reduction of entry permits to optimum
12 levels;

13 (2) recommendations for additional legislation relating to the regulation
14 of entry of participants and vessels into Alaska commercial fisheries.

15 * **Sec. 106.** AS 16.43.980 is amended by adding a new subsection to read:

16 (c) The commission shall prepare a monthly report and notify the legislature that the
17 report is available. The report must

18 (1) be available by the first day of each month;

19 (2) provide an estimate of the hours that the members of the
20 commission worked in the preceding month; and

21 (3) describe the activities and accomplishments of the commission in
22 the preceding month.

23 * **Sec. 107.** AS 16.43.990(4) is amended to read:

24 (4) "fishery" means the commercial taking of a specific fishery
25 resource in a specific administrative area with a specific type of gear; however, the
26 department [COMMISSION] may designate a fishery to include more than one
27 specific administrative area, gear type, or fishery resource;

28 * **Sec. 108.** AS 16.43.990 is amended by adding new paragraphs to read:

29 (12) "commissioner" means the commissioner of fish and game;

30 (13) "department" means the Department of Fish and Game unless
31 specifically provided otherwise.

1 * **Sec. 109.** AS 25.27.230(c) is amended to read:

2 (c) The lien shall attach to all real and personal property of the obligor and be
3 effective on the date of recording of the lien with the recorder of the recording district
4 in which the property attached is located. A lien against earnings shall attach and be
5 effective upon filing with the recorder of the recording district in which the employer
6 does business or maintains an office or agent for the purpose of doing business. A lien
7 filed at the offices of the **Department of Fish and Game** [COMMERCIAL
8 FISHERIES ENTRY COMMISSION] in Juneau against a limited entry permit issued
9 under AS 16.43 is considered to have been filed against the permit in all recording
10 districts in which the permit holder uses the permit.

11 * **Sec. 110.** AS 37.05.146(c)(29) is amended to read:

12 (29) **the commercial fisheries entry division of the Department of**
13 **Fish and Game** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION]
14 under AS 16.05.490, 16.05.530, and AS 16.43;

15 * **Sec. 111.** AS 39.35.680(22) is amended to read:

16 (22) "member" or "employee"

17 (A) means a person eligible to participate in the plan and who
18 is covered by the plan;

19 (B) includes

- 20 (i) an active member;
21 (ii) an inactive member;
22 (iii) a vested member;
23 (iv) a deferred vested member;
24 (v) a nonvested member;
25 (vi) a disabled member;
26 (vii) a retired member;
27 (viii) an elected public officer under AS 39.35.381;

28 (C) does not include

- 29 (i) former members;
30 (ii) persons compensated on a contractual or fee basis;
31 (iii) casual or emergency workers or nonpermanent

employees as defined in AS 39.25.200;

(iv) persons covered by the Alaska Teachers' Retirement System except as provided under AS 39.35.131 and 39.35.381, or persons covered by a university retirement program;

(v) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a union or group retirement system to which the state makes contributions;

(vi) justices of the supreme court or judges of the court of appeals or of the superior or district courts of Alaska;

(vii) the administrative director of the Alaska Court System appointed under art. IV, sec. 16 of the state constitution unless the director becomes a member under AS 39.35.158;

(viii) members of the elected public officers' retirement system (former AS 39.37); [AND]

(ix) contractual employees of the legislative branch of state government under AS 24.10.060(f); **and**

(x) members of the Alaska Commercial Fisheries Entry Commission under AS 16.43.020;

(D) may include employees of the division of marine transportation excluded under (C)(v) of this paragraph **if** [PROVIDED THAT]

(i) the State of Alaska formally agrees to their inclusion through the process of collective bargaining; and

(ii) no collective bargaining agreement has the effect of obligating contributions made by the state under AS 39.30.150 in the event the state resumes participation in the federal social security system;

* **Sec. 112.** AS 39.35.990(16) is amended to read:

(16) "member" or "employee" means a person who is eligible to participate in the plan and who is covered by the plan, including the governor, the lieutenant governor, and a member of the legislature, but does not include **a**

(A) full-time or part-time **instructor** [INSTRUCTORS] of the

Department of Labor and Workforce Development or [AND] the Department of Education and Early Development in a position [POSITIONS] that requires [REQUIRE] a teaching certificate; or

(B) member of the Alaska Commercial Fisheries Entry Commission under AS 16.43.020;

* **Sec. 113.** AS 43.76.015(f) is amended to read:

(f) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the **commercial fisheries entry division of the Department of Fish and Game** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] as the legal owner of an interim-use permit or an entry permit that [WHICH] authorizes the individual to fish commercially in an administrative area established [BY THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.200, which is included, in whole or in part, in the region in which the election is held.

* **Sec. 114.** AS 43.76.160(g) is amended to read:

(g) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the **commercial fisheries entry division of the Department of Fish and Game** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] as the legal holder of an interim-use permit for dive gear or an entry permit for dive gear that authorizes the individual to fish commercially in the administrative area for the species of fishery resource for which the dive fishery management assessment is to be approved, amended, or terminated.

* **Sec. 115.** AS 43.76.210(1) is amended to read:

(1) "administrative area" means an area established by the **commercial fisheries entry division of the Department of Fish and Game** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.200 for regulating and controlling entry into fisheries using dive gear;

* **Sec. 116.** AS 43.76.230(g) is amended to read:

(g) In this section, "eligible interim-use permit and entry permit holder" means

an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the commercial fisheries entry division of the Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] as the legal holder of an interim-use permit for salmon fishing gear or an entry permit for salmon fishing gear that authorizes the individual to fish commercially in the salmon fishery for which the salmon fishery assessment is to be approved, amended, or terminated.

* **Sec. 117.** AS 43.76.280(1) is amended to read:

(1) "administrative area" means an area established by the commercial fisheries entry division of the Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.200 for regulating and controlling entry into salmon fisheries;

* **Sec. 118.** AS 43.76.300 is amended to read:

Sec. 43.76.300. Permit buy-back assessment. A person holding a limited entry permit or interim-use permit under AS 16.43 for a fishery subject to a permit buy-back assessment established by the commercial fisheries entry division of the Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.310 shall pay the permit buy-back assessment at the rate established by the division [COMMISSION] on the value, as defined in AS 43.75.290, of fish that the person removes from the state or transfers to a buyer in the state under the authority conferred by the limited entry permit or interim-use permit. The buyer shall collect the permit buy-back assessment at the time the fish is acquired by the buyer.

* **Sec. 119.** AS 43.76.370(i) is amended to read:

(i) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the commercial fisheries entry division of the Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] as the legal owner of an interim-use permit or an entry permit that authorizes the individual to operate commercial fishing gear in the fishery that is or will be subject to the seafood development tax that is the subject of

the election.

* **Sec. 120.** AS 44.62.330(a)(27) is amended to read:

(27) Department of Fish and Game as to functions relating to the protection of fish and game under AS 16.05.871 or commercial fisheries under AS 16.43;

* **Sec. 121.** AS 44.81.231(d) is amended to read:

(d) Upon payment of the loan, the bank shall certify to the commercial fisheries entry division of the Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] that the loan has been repaid, and the division [COMMISSION] shall amend the permit certificate to list the equitable owner as the holder, and the legal interest of the bank shall terminate.

* **Sec. 122.** AS 44.81.241 is amended to read:

Sec. 44.81.241. Initial notice of default. If there is a default on a loan secured by a permit pledged under AS 44.81.231, the bank shall notify the borrowers and guarantors on the loan of the default and of the right to cure the default by sending a notice by certified mail to their last known address or addresses on file with the bank. The notice must include

(1) the date of the notice;

(2) a description of the security given for the loan, including the number assigned by the commercial fisheries entry division of the Department of Fish and Game [COMMISSION] and the name of the equitable owner of each permit pledged to secure the loan;

(3) the date and nature of the default;

(4) the amount of arrearages as of the date of the notice;

(5) the total indebtedness, including interest, penalties, and costs of collection, remaining owing on the loan as of the date of the notice;

(6) the amount of daily interest to accrue from the date of the notice;

(7) a statement that the costs of collection of the loan incurred by the bank after the date of the notice will be added to the total amount of the indebtedness owing on the loan;

(8) a statement that the default may be cured within 60 days from the

1 date of the notice or within an extended time period that is specified in an extension
2 notice provided by the bank within the 60-day period under AS 44.81.249;

3 (9) the place where payment of arrearages or other cure may be made;
4 and

5 (10) a statement in at least 10 point bold type stating:

6 "IMPORTANT: UNLESS YOU CURE THE LOAN DEFAULT
7 WITHIN THE TIME SPECIFIED BY THIS NOTICE, THE TOTAL
8 INDEBTEDNESS OWING ON THE LOAN SHALL BE
9 IMMEDIATELY DUE AND PAYABLE TO THE BANK WITHOUT
10 FURTHER NOTICE TO YOU. ALSO, THE BANK SHALL THEN
11 BE ENTITLED TO TAKE ANY LEGAL ACTION AGAINST YOU
12 TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF
13 LAWSUITS AND THE FORECLOSURE OF THE PLEDGE OF ANY
14 PERMIT PLEDGED TO SECURE THIS LOAN."

15 * **Sec. 123.** AS 44.81.245 is amended to read:

16 **Sec. 44.81.245. Foreclosure.** The bank may foreclose on a permit pledge that
17 secures a loan by sending to the equitable owner of the permit pledged and any other
18 borrowers and guarantors on the loan a notice of foreclosure. The notice shall be sent
19 by certified mail to their last known address or addresses on file with the bank and
20 must include

21 (1) the date of the notice;

22 (2) a statement that the total indebtedness owing on the loan became
23 due and payable to the bank because the loan default was not cured within the time
24 specified in the notice of default and right to cure provided under AS 44.81.241, and
25 that as a result the bank is entitled to take legal action to collect the loan, including the
26 forfeiture of a permit pledge that secures the loan and the institution of legal action;

27 (3) a description of the permit pledge that is being foreclosed by the
28 notice, including an identification of the permit by the number assigned by the
29 commercial fisheries entry division of the Department of Fish and Game
30 [COMMISSION] and the name of the equitable owner;

31 (4) the amount of the total indebtedness owing as of the date of the

notice;

(5) the amount of daily interest that accrues from the date of the notice;

(6) a statement that the costs of collection of the loan incurred by the bank after the date of the notice will be added to the total amount of the indebtedness due on the loan;

(7) a statement that to avoid forfeiture of all rights of the equitable owner of the permit identified in the notice, the loan must be paid in full within 60 days from the date of the notice or within an extended time period that is specified in an extension notice provided by the bank within the 60-day period under AS 44.81.249;

(8) a statement that once a forfeiture of all rights of the equitable owner of a permit described in the notice occurs, the permit may not be redeemed;

(9) a statement of the right of the equitable owner to nominate a person to assume the loan under AS 44.81.250(c);

(10) the place where payment in full may be made; and

(11) a notice in at least 10 point bold type stating:

"IMPORTANT: IF THE LOAN IS NOT PAID IN FULL BY THE DATE SPECIFIED, ALL RIGHTS OF THE EQUITABLE OWNER TO THE PERMIT IDENTIFIED IN THIS NOTICE WILL BE FORFEITED WITHOUT FURTHER NOTICE TO YOU. IN THAT EVENT, THERE WILL NOT BE A RIGHT OF REDEMPTION OF THE PERMIT. IN ADDITION, THE BANK MAY NOW TAKE OTHER ACTION TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF LEGAL ACTION AGAINST YOU AND THE FORECLOSURE OF OTHER PERMIT PLEDGES THAT SECURE THE LOAN."

* **Sec. 124.** AS 44.81.247(a) is amended to read:

(a) If a loan is not paid in full within the time specified by the notice provided for the loan under AS 44.81.245, the equitable interest in the permit identified in the notice terminates by operation of law without further notice. The commercial fisheries entry division of the Department of Fish and Game [COMMISSION]

shall cancel an entry permit card issued to the equitable owner of the permit immediately upon receipt by the division [COMMISSION] of a certificate of termination containing a copy of the notices required by AS 44.81.241 and 44.81.245.

* **Sec. 125.** AS 44.81.250(a) is amended to read:

(a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 - 44.81.249 or the termination of a debtor's interest in an entry permit under AS 44.81.247(b), the bank shall determine if the permit is subject to a buy-back program under AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program, shall offer the permit to the commercial fisheries entry division of the Department of Fish and Game [COMMISSION] at a price equal to the outstanding indebtedness on the loan.

* **Sec. 126.** AS 44.81.250(b) is amended to read:

(b) If the permit is not subject to a buy-back program, or if the commercial fisheries entry division of the Department of Fish and Game [COMMISSION] fails to buy back the permit within 30 days after the division [COMMISSION] receives the offer, the bank shall sell the permit to a person who qualifies as a transferee of an entry permit under AS 16.43 and the regulations adopted by the division and the commission. The bank shall give preference to an offer to purchase a permit made by a state resident if the price offered is equal to or greater than the price offered by a nonresident. If the proceeds of the sale of a permit exceed the amount necessary to pay the indebtedness in full, the bank shall remit the excess to the borrower.

* **Sec. 127.** AS 44.81.350(3) is amended to read:

(3) "division" ["COMMISSION"] means the commercial fisheries entry division of the Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.020;

* **Sec. 128.** AS 16.10.360(1) is repealed.

* **Sec. 129.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION. Litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act, or in connection with functions transferred by

1 this Act, continue in effect and may be continued and completed notwithstanding a transfer or
2 amendment or repeal provided for in this Act. Certificates, orders, and regulations issued or
3 adopted under authority of a law amended or repealed by this Act remain in effect for the term
4 issued, or until revoked, vacated, or otherwise modified under the provisions of this Act.
5 Contracts, rights, liabilities, and obligations created by or under a law amended or repealed by
6 this Act, and in effect on the effective date of this section, remain in effect notwithstanding
7 this Act's taking effect. Records, equipment, appropriations, and other property of agencies of
8 the state whose functions are transferred under this Act shall be transferred to implement the
9 provisions of this Act.

10 * **Sec. 130.** The uncoded law of the State of Alaska is amended by adding a new section
11 to read:

12 EMPLOYEES. (a) Employees of the Alaska Commercial Fisheries Entry Commission
13 whose positions are transferred to the Department of Fish and Game under this Act become
14 employees of the commercial fisheries entry division of the Department of Fish and Game on
15 the effective date of this section.

16 (b) Consistent with the provisions of this Act, the commissioner of fish and game, in
17 consultation with the Alaska Commercial Fisheries Entry Commission, shall decide which
18 positions must be transferred to the Department of Fish and Game under (a) of this section.

19 (c) Notwithstanding any other provision of law, the Department of Fish and Game
20 shall immediately appoint employees of the Alaska Commercial Fisheries Entry Commission
21 whose positions are transferred to the commercial fisheries entry division of the Department
22 of Fish and Game to the classified service. This appointment may not reduce the employee's
23 pay

24 (1) solely because of the assignment described in this section; or

25 (2) because the employee is assigned to a position in the classified service that
26 is classified at a lower rate of pay than that received when the employee was assigned to the
27 exempt service.

28 * **Sec. 131.** The uncoded law of the State of Alaska is amended by adding a new section
29 to read:

30 FIRST MONTHLY REPORT. Notwithstanding AS 16.43.980(c), added by sec. 106
31 of this Act, the first monthly report required under that subsection is due February 1, 2017.

1 * **Sec. 132.** Section 130(b) of this Act takes effect immediately under AS 01.10.070(c).

2 * **Sec. 133.** Section 20 of this Act takes effect January 1, 2017.

3 * **Sec. 134.** Section 92 of this Act takes effect on the effective date of sec. 6, ch. 2, SLA
4 2014.

5 * **Sec. 135.** Section 97 of this Act takes effect on the effective date of sec. 8, ch. 2, SLA
6 2014.

7 * **Sec. 136.** Section 99 of this Act takes effect on the effective date of sec. 10, ch. 2, SLA
8 2014.

9 * **Sec. 137.** Section 101 of this Act takes effect on the effective date of sec. 14, ch. 2, SLA
10 2014.

11 * **Sec. 138.** Section 103 of this Act takes effect on the effective date of sec. 16, ch. 2, SLA
12 2014.