



Alaska Trollers Association

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March 25, 2015

Representative Louise Stutes, Chairman
House Fisheries Committee
Alaska Legislature
Juneau, AK 99811

RE: HB 112 Repeal CFEC

Dear Representative Stutes and Committee Members:

The Alaska Trollers Association (ATA) is concerned about HB 112, which would repeal the Commercial Fisheries Entry Commission (CFEC) and divide its duties and functions between Department of Fish and Game (ADFG) and the Office of Administrative Hearings. We question the efficacy of dismantling CFEC, and are concerned about potential, negative ramifications for Alaska fishermen and their communities. The information available for review on this issue is multi-layered and raises more questions than it answers.

At first blush, ATA opposes HB 112 because it is likely to create inefficiencies; increase costs overtime; make CFEC vulnerable to added political pressure, which could erode public trust; and threatens to degrade services to permit holders and their families. Ironically, just going through the motions of this bill diverts CFEC's attention from its work. **At minimum, we suggest the committee postpone action on HB 112 until it can be more carefully analyzed through legislative audit and other means, and then fully vetted with the affected public.**

The Lawson Report appears to include a variety of factual errors that CFEC was not allowed to respond to prior to publication of the report. This is unfortunate and creates confusion for those of us who are trying to understand what, if any problems exist within CFEC and how best to resolve them. Nearly all of Lawson's negative findings and recommendations are administrative and can be taken care of in relatively short order. These items certainly shouldn't force closure of the commission. CFEC freely admits that that some administrative functions could be improved, and have presented you with an action plan to begin that process. That should be taken seriously. The legislative audit that is slated for completion this summer should provide additional information on the matter and provide a more realistic view of costs associated with HB 112.

The savings touted in the fiscal note don't seem realistic, particularly if you consider a potential loss in efficiency that could result from the new structure. When adjudicating cases - from permit transfers to new fishery applications - CFEC must maneuver the large body of obscure law and regulation that underpins the limited entry program; this demands a seasoned familiarity with the issues by those making rulings or creating new regulation. It is difficult to believe that this work can be efficiently dealt with under ADFG's structure or on an occasional basis by hearing officers who may be unfamiliar with limited entry law and regulation. Hearing officers are bound by the Administrative Procedures Act (APA) and its lengthy process. For instance, CFEC currently adjudicates emergency permit transfers in a matter of days. In contrast, if a fisherman had a poorly timed emergency and had to seek a license transfer, the APA's 120 day process could very well cause the permit holder or transferee to miss the entire fishing season.

A more thorough legal opinion seems advisable, particularly in light of recent bill changes. The previous legal memo from Department of Law posed questions about things like the legislature's legal authority to create a division within an agency, and changing employment status of CFEC staff. Fishermen will be concerned to know how new regulations would be developed, and by whom. It would also be concerning to lose the three commissioner deciding body on cases that involve potential permit loss, etc.

ATA represents commercial salmon trollers who operate in state and federal waters from Dixon Entrance to Cape Suckling. In 2013, there were 1,963 active troll permits, 85% of them owned by Alaskans primarily living and working in Southeast communities. Trollers and their deckhands paid about \$280K in permit fees and licensing alone. These fishermen landed about 28 million pounds of salmon valued at over \$41 million, which put another \$837K in fisheries business tax into the general fund and communities. Many trollers also harvest halibut, cod, and shellfish and taxes are paid on those species. In addition to the many other state, local, and federal taxes and fees, trollers paid \$837K to help finance the region's hatchery programs, which provide salmon for all user groups.

The seafood industry is Alaska's largest private sector employer - fishing jobs are essential for the health of coastal Alaska and are a catalyst for the creation of processing and support sector jobs throughout the state.

CFEC has a long history of establishing and safeguarding our fishing privileges and assisting fishing fleets and families. Recently CFEC's efforts were key to distributing a portion of the Southeast Alaska Chinook Salmon Mitigation Fund, which was established to help mitigate troll and sport losses under the Pacific Salmon Treaty. CFEC staff went out of their way to make the program a success. Their data was spot on and they were professional, prompt, and helpful. This is business as usual when working with the CFEC crew.

Governor Egan and former legislatures wisely chose to insulate CFEC from undue political influence and grant it quasi-judicial status. This allows the commissioner's to affect change through nimble problem-solving and the creation of regulations to fit unique situations. While this provides a degree of flexibility to resolve some issues in a timely way, it is crucial that CFEC develop deliberative standards and rules, to ensure legal defensibility and consistent application amongst all permit holders. That can take lots of time, particularly when large distractions get thrown in the path of those who already have a hefty volume of work on their hands.

ATA would like nothing better than to see HB 112 dropped and CFEC staff head back to work on their most important tasks. The commissioners have suggested a plan to you that seems reasonable for quickly ameliorating the administrative issues in need of attention.

If you can't vote no on HB 112 today, then I urge you to at least wait until you have more information on which to base a decision. Some of that work is already in progress, like the legislative audit. In the meantime, there is no budget or legal crisis in need of a fix at CFEC this year, and they bring in far more money than they spend; the additional revenues are already utilized to assist ADFG. Therefore, it should not create hardships for the state and agencies if you were to postpone action on HB 112.

Thank you for considering ATA's point of view. If I can answer questions or otherwise assist you on issues of concern to the fishing industry, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink that reads "Dale Kelley". The signature is written in a cursive, slightly slanted style.

Dale Kelley
Executive Director