

31-LS0230\R  
Bullard  
4/15/19

**CS FOR SENATE BILL NO. 90( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTY-FIRST LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS MICCICHE, Bishop**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission;**  
2 **relating to administrative areas for regulation of certain commercial set net entry**  
3 **permits; establishing a buy-back program for certain set net entry permits; providing**  
4 **for the termination of state set net tract leases under the buy-back program; closing**  
5 **certain water to commercial fishing; and providing for an effective date."**

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

7 \* **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
8 to read:

9 SHORT TITLE. This Act may be known as the East Side of Cook Inlet Set Net Fleet  
10 Reduction Act.

11 \* **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to  
12 read:

13 LEGISLATIVE FINDINGS AND INTENT. (a) The Alaska State Legislature finds

that it is in the public interest to reduce the number of commercial set net fishers and decrease the pressure of commercial fishing on the east side of Cook Inlet, to create a more economically viable and sustainable set net fishery, and to allow more fish for in-river users.

(b) It is the intent of the legislature that the program established by this Act will not have an adverse effect on the state treasury.

\* **Sec. 3.** AS 16.43.200(b) is amended to read:

(b) The commission may modify or change the boundaries of an administrative area or divide an existing administrative area into two or more separate administrative areas when necessary and consistent with the purposes of this chapter.

\* **Sec. 4.** AS 16.43.200 is amended by adding new subsections to read:

(c) Notwithstanding (a) and (b) of this section, for the purposes of issuing entry permits and controlling entry into the commercial set net fishery on the east side of Cook Inlet, the commission shall establish the area administered on December 31, 2019, identified by the Department of Fish and Game as of January 1, 2019, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of the Upper Subdistrict of the Cook Inlet Central District as a distinct administrative area separate from the Cook Inlet administrative area.

(d) An entry permit that entitled a person to set net commercially in the area that was administered on December 31, 2019, by the commission as the Cook Inlet administrative area does not entitle that person to set net commercially in the administrative area established under (c) of this section unless the commission reassigns the permit to that administrative area.

\* **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REASSIGNMENT OF CERTAIN COOK INLET AREA SET NET ENTRY PERMITS. (a) On January 1, 2020, an individual holding an entry permit that entitles the individual to commercially set net in the Cook Inlet administrative area may have the individual's entry permit renewed as an entry permit for the Cook Inlet set net administrative area under AS 16.43.150(c), consistent with the boundaries of that administrative area established under AS 16.43.200, as amended by secs. 3 and 4 of this Act, unless the individual

1 provides proof satisfactory to the Alaska Commercial Fisheries Entry Commission of the  
2 individual's participation in the fishery in the areas identified by the Department of Fish and  
3 Game as of January 1, 2019, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and  
4 244-42 of the Upper Subdistrict of the Cook Inlet Central District within the two years  
5 preceding December 31, 2019. Proof satisfactory of participation under this subsection may  
6 include a shore fisheries lease, an area registration, a buoy tag, or previous submission of  
7 fishing statistics for the area.

8 (b) An individual who provides proof satisfactory to the Alaska Commercial Fisheries  
9 Entry Commission of the individual's participation in the fishery in the areas identified by the  
10 Department of Fish and Game as of January 1, 2019, as statistical areas 244-21, 244-22, 244-  
11 31, 244-32, 244-41, and 244-42 of the Upper Subdistrict of the Cook Inlet Central District  
12 under (a) of this section shall be reassigned an entry permit on January 1, 2020, for the new  
13 administrative area established under AS 16.43.200(c), enacted by sec. 4 of this Act.

14 \* **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to  
15 read:

16 APPEAL OF COMMISSION DECISION NOT TO ASSIGN AN APPLICANT'S  
17 PERMIT TO NEW ADMINISTRATIVE AREA. (a) An individual may appeal a decision by  
18 the Alaska Commercial Fisheries Entry Commission to renew the entry permit held by the  
19 individual that allows the individual to commercially fish in the Cook Inlet administrative  
20 area, as the area's boundaries are amended by AS 16.43.200(c), enacted by sec. 4 of this Act,  
21 instead of issuing the individual an entry permit for the administrative area established by  
22 AS 16.43.200(c), enacted by sec. 4 of this Act. An appeal under this section must be made to  
23 the superior court on or before March 1, 2020.

24 (b) The commission shall provide an individual who is appealing a decision of the  
25 commission under this section

26 (1) a provisional entry permit for the administrative area established by  
27 AS 16.43.200(c), enacted by sec. 4 of this Act; and

28 (2) if the individual's appeal has not been resolved at the time of the election  
29 held under sec. 7 of this Act, a provisional ballot for the election.

30 (c) If an individual's appeal has not been resolved at the time of the election held  
31 under sec. 7 of this Act, the individual may cast a provisional ballot that may be counted as a

1 vote in the election only if, on appeal, the court determines that the individual's entry permit  
2 must be reassigned to the administrative area established by AS 16.43.200(c), enacted by sec.  
3 4 of this Act.

4 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 ELECTION FOR COMMERCIAL SET NET FISHING PERMIT BUY-BACK  
7 PROGRAM. (a) On April 1, 2020, the commission, with the cooperation of the Department of  
8 Natural Resources, shall conduct an election among individuals qualified under (b) of this  
9 section on the question of whether to establish an entry permit buy-back program under sec. 8  
10 of this Act.

11 (b) An individual is eligible to vote in the election conducted under (a) of this section  
12 if the individual holds an entry permit, or provisional entry permit issued under sec. 6(b) of  
13 this Act, for set net fishing in the administrative area established under AS 16.43.200(c),  
14 enacted by sec. 4 of this Act.

15 (c) The commission shall conduct the election according to the following procedures:

16 (1) not less than 30 days before the date on which ballots must be postmarked  
17 to be counted in the election, the commission shall hold at least one public meeting to explain  
18 the buy-back program to eligible voters and other interested persons and to explain the  
19 registration and voting procedure to be used in the election; the commission shall provide  
20 notice of the meeting by

- 21 (A) mailing the notice to each eligible entry permit holder;  
22 (B) posting the notice in at least three public places in the voting  
23 region; and  
24 (C) publishing the notice in at least one newspaper of general  
25 circulation in the voting region at least once a week for two consecutive weeks before  
26 the meeting;

27 (2) the commission shall mail two ballots to each eligible entry permit holder;  
28 the commission shall mail the first ballot not more than 45 days before the date on which  
29 ballots must be postmarked to be counted in the election; the commission shall mail the  
30 second ballot not less than 15 days before the date on which ballots must be postmarked to be  
31 counted in the election; the commission shall adopt procedures to ensure that only one ballot

from each eligible entry permit holder is counted in the election;

(3) the ballot must

(A) ask whether the buy-back program established under sec. 8 of this Act should be implemented;

(B) indicate the boundaries of the region in which the buy-back program would apply;

(C) clarify the details of the buy-back program, including which set net entry permit holders are eligible to participate and the entry permit buy-back price to be offered by the commission under sec. 8 of this Act if the program is approved;

(D) provide the effective date for the initiation of the entry permit buy-back program if the program is approved without reliance on provisional ballots and how the program's effective date will be determined if approval of the program depends on counting provisional ballots; and

(E) indicate the date on which ballots must be postmarked in order to be counted;

(4) the ballots must be returned by mail and counted by the commission or a person approved by the commission.

(d) If the commission determines that the procedural requirements of (c) of this section have been satisfied, the commission shall certify the results of the election

(1) within 45 days after the date on which ballots must be postmarked; or

(2) only after a sufficient number of program applicants' appeals are resolved under sec. 6 of this Act so that the commission may determine the outcome without counting provisional ballots.

(e) In this section, "commission" means the Alaska Commercial Fisheries Entry Commission established under AS 16.43.020.

\* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

COMMERCIAL SHORE SET NET ENTRY PERMIT BUY-BACK PROGRAM. (a) In addition to the buy-back provisions under AS 16.43.310 and 16.43.320, an individual who is qualified under this section may sell the individual's entry permit to the commission under the conditions established in this section. Except as provided in sec. 7 of this Act, to

participate, an individual must

(1) hold a commercial fishing set net entry permit for the administrative area established under AS 16.43.200(c), enacted by sec. 4 of this Act;

(2) provide proof satisfactory to the commission of the individual's participation in the fishery identified by the Department of Fish and Game as of January 1, 2019, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of the Upper Subdistrict of the Cook Inlet Central District within the two years preceding December 31, 2018; and

(3) apply to the commission within 30 days after the effective date of this section.

(b) Participation in the buy-back program established under this section is voluntary. An individual qualified under this section may apply electronically on a form provided by the commission to have the individual's entry permit purchased under this section. The commission shall provide each applicant with an electronic receipt evidencing the date and time the individual's application was received. Subject to appropriation and to (c) of this section, the commission shall buy back 200 unencumbered entry permits in the order in which applicant names are drawn by a lottery. If an applicant whose permit has been selected for purchase is disqualified from participation in the program under (c) of this section, elects not to participate in the buy-back program, fails to sign the contract of sale within a period specified by the commission, or fails to provide the information required under (h) of this section, the commission shall, subject to (c) of this section, offer to buy back the entry permit of the applicant whose name was next selected in the lottery.

(c) If an applicant whose name is selected in the lottery under this section has a provisional entry permit provided under sec. 6(b) of this Act, the commission shall set aside the funds to buy back the permit but may not buy back the permit until a court finds, in a final judicial determination, that the permit must be reassigned by the commission to the administrative area established under AS 16.43.200(c), enacted by sec. 4 of this Act. If the court finds, in a final determination, that the commission's determination not to reassign an applicant's permit to the administrative area established by AS 16.43.200(c) was correct, the applicant is not qualified to participate in the buy-back program established by this section.

(d) The commission shall cancel an entry permit purchased under this section. The

1 commission may not reissue a permit or issue another permit in the place of a cancelled  
2 permit.

3 (e) Subject to appropriation and (c) of this section, the commission shall

4 (1) buy back the entry permit of an applicant selected in the lottery under this  
5 section for \$260,000, less administrative costs; and

6 (2) provide each applicant whose entry permit is purchased by the commission  
7 under this section the option of accepting payment in three annual installments.

8 (f) When the commission purchases an entry permit under (b) of this section from an  
9 individual who

10 (1) holds a lease under AS 38.05.082, the commission shall provide the  
11 Department of Natural Resources with notice of the sale, the seller's identity, and the affected  
12 lease under AS 38.05.082;

13 (2) fishes the individual's entry permit from a tract leased from a municipality  
14 or from other unleased public or private land, the commission shall provide the Department of  
15 Natural Resources and the Department of Fish and Game with notice of the sale, the seller's  
16 identity, and information concerning the leased tract provided by the individual under (h) of  
17 this section.

18 (g) Upon notice from the commission under (f) of this section, and notwithstanding  
19 AS 38.05.085, the Department of Natural Resources shall

20 (1) without penalty or charge, terminate all land leases held under  
21 AS 38.05.082 used to fish an entry permit purchased by the commission under (b) of this  
22 section; and

23 (2) provide the Department of Fish and Game with the geographic and legal  
24 boundaries of a tract for which a lease is cancelled under (1) of this subsection.

25 (h) An individual who applies to take part in the buy-back program under this section  
26 and who

27 (1) leases land from a municipal government to fish the individual's set net  
28 entry permit shall provide the commission with the geographic location and boundaries of the  
29 leased tract;

30 (2) fishes the individual's set net entry permit from public land without a lease  
31 or other contract shall provide the commission with an affidavit containing an accurate

1 description of the site, a site survey, and other related information required by the  
2 commission.

3 (i) Upon receiving from the Department of Natural Resources the information  
4 required under (g)(2) of this section, or from the commission the information required under  
5 (f)(2) of this section, the Department of Fish and Game shall, in accordance with AS 44.62  
6 (Administrative Procedure Act), close to commercial fishing the water that could be  
7 commercially fished, under the authority of the repurchased set net entry permit, from the  
8 affected public land, municipal lease, or terminated state lease tract under the regulations of  
9 the Department of Fish and Game that were in effect at the time the set net entry permit was  
10 purchased by the commission.

11 (j) When the commission purchases an entry permit from an individual who fished the  
12 entry permit from land leased from a municipality, the commission shall notify the  
13 Department of Natural Resources and the municipality of the purchase and of the geographic  
14 boundaries of the water that will be closed to commercial salmon fishing under (h) of this  
15 section.

16 (k) The acquisition of an entry permit under this section is not subject to AS 36.30  
17 (State Procurement Code).

18 (l) Proof of an individual's participation in the fishery described in (a)(2) of this  
19 section may include a shore fisheries lease, an area registration, or previous submission of  
20 fishing statistics for the area.

21 (m) In this section, "commission" means the Alaska Commercial Fisheries Entry  
22 Commission established under AS 16.43.020.

23 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 REPORT TO LEGISLATURE. The Alaska Commercial Fisheries Entry Commission  
26 shall provide a written report to the legislature on the status of the entry permit buy-back  
27 program established under sec. 8 of this Act, including the number of permits purchased. The  
28 commission shall deliver the report to the senate secretary and the chief clerk of the house of  
29 representatives not later than January 15, 2026, and notify the legislature that the report is  
30 available.

31 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to



1 read:

2 NOTIFICATION TO LIEUTENANT GOVERNOR AND REVISOR OF  
3 STATUTES. On the date the Alaska Commercial Fisheries Entry Commission certifies the  
4 outcome of the election under sec. 7 of this Act, the chair of the Alaska Commercial Fisheries  
5 Entry Commission shall provide written notice to the lieutenant governor and revisor of  
6 statutes of the outcome of the election.

7 \* **Sec. 11.** Sections 1, 2, 8, and 9 of this Act are repealed June 30, 2026.

8 \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 CONDITIONAL EFFECT. Sections 1, 2, 8, and 9 of this Act take effect only if the  
11 chair of the Alaska Commercial Fisheries Entry Commission provides notice under sec. 10 of  
12 this Act that the buy-back program established under sec. 8 of this Act was approved.

13 \* **Sec. 13.** Section 4 of this Act takes effect January 1, 2020.

14 \* **Sec. 14.** If secs. 1, 2, 8, and 9 of this Act take effect under sec. 12 of this Act, they take  
15 effect 30 days after the date the chair of the Alaska Commercial Fisheries Entry Commission  
16 provides notice under sec. 10 of this Act that the buy-back program established under sec. 8  
17 of this Act was approved.

18 \* **Sec. 15.** Except as provided in secs. 13 and 14 of this Act, this Act takes effect July 1,  
19 2019.