

SENATE CS FOR CS FOR HOUSE BILL NO. 286(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/25/02

Referred: Judiciary

Sponsor(s): REPRESENTATIVES SCALZI, Fate, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act allowing a person to hold two commercial fishing entry permits for a salmon**
2 **fishery for the purpose of consolidating the fishing fleet for a salmon fishery; relating to**
3 **salmon fishery associations and to salmon fishery assessments; and providing for an**
4 **effective date."**

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

6 * **Section 1.** AS 16.40 is amended by adding a new section to read:

7 **Article 5. Salmon Fishery Associations.**

8 **Sec. 16.40.250. Salmon fishery associations.** The commissioner may assist
9 in and encourage the formation of qualified salmon fishery associations for the
10 purpose of promoting the consolidation of the fishing fleet in a salmon fishery for
11 which the Alaska Commercial Fisheries Entry Commission has issued commercial
12 fishing entry permits under AS 16.43. A salmon fishery association is qualified if the
13 commissioner determines that the regional association

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

1 (2) is comprised of interim-use permit and entry permit holders in the
2 salmon fishery for which the association is established; and

3 (3) has a board of directors that is comprised of interim-use permit and
4 entry permit holders in the salmon fishery.

5 * **Sec. 2.** AS 16.43.140(c) is amended to read:

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

8 (1) fishing more than one type of gear;

9 (2) fishing in more than one administrative area;

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

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

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

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

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

24 * **Sec. 3.** AS 37.05.146(b)(4)(AA) is amended to read:

25 (AA) dive fishery management assessment receipts
26 (AS 43.76.150) **and salmon fishery assessment receipts (AS 43.76.220);**

27 * **Sec. 4.** AS 43.76 is amended by adding new sections to read:

28 **Article 4. Salmon Fishery Assessment.**

29 **Sec. 43.76.220. Salmon fishery assessment.** (a) A salmon fishery
30 assessment shall be levied on the value of the salmon sold in a salmon fishery. The
31 rate of the assessment, not to exceed five percent, and the termination date of the

1 assessment shall be determined by an election under AS 43.76.230.

2 (b) A salmon fishery assessment may only be levied or collected on salmon
3 sold in a fishery if

4 (1) there exists for that fishery an association determined by the
5 commissioner of fish and game to be a qualified salmon fishery association under
6 AS 16.40.250; and

7 (2) the rate of the salmon fishery assessment is determined by an
8 election under AS 43.76.230.

9 **Sec. 43.76.230. Election to approve, amend, or terminate salmon fishery**
10 **assessment.** (a) A qualified salmon fishery association may conduct an election
11 under this section after the commissioner of fish and game approves

12 (1) the notice to be published by the qualified salmon fishery
13 association; the notice must state that all salmon sold in the fishery are subject to the
14 salmon fishery assessment, the rate of the salmon fishery assessment to be approved,
15 amended, or terminated at the election, and the date on which the assessment would
16 terminate under AS 43.76.250(a);

17 (2) the ballot to be used in the election; and

18 (3) the registration and voting procedure for the approval, amendment,
19 or termination of the salmon fishery assessment.

20 (b) The salmon fishery assessment is levied under AS 43.76.220 in a fishery
21 on the effective date stated on the ballot if

22 (1) the assessment is approved by a two-thirds majority vote of the
23 eligible interim-use permit and entry permit holders in the fishery; and

24 (2) the election results are certified by the commissioner of fish and
25 game.

26 (c) In conducting an election under this section, a qualified salmon fishery
27 association shall adopt the following procedures:

28 (1) the qualified salmon fishery association for the fishery shall make
29 copies of the articles of incorporation and bylaws of the association available to all
30 interim-use permit and entry permit holders in the fishery;

31 (2) the qualified salmon fishery association for the fishery shall hold at

1 least one public meeting not less than 30 days before the date on which ballots must be
2 postmarked to be counted in the election to explain, as appropriate, the reason for
3 approval or amendment of the proposed salmon fishery assessment, the reason for the
4 proposed rate and the proposed termination date of the salmon fishery assessment, or
5 the reason for termination of the salmon fishery assessment, and to explain the
6 registration and voting procedure to be used in the election; the qualified salmon
7 fishery association shall provide notice of the meeting by

8 (A) mailing the notice to each eligible interim-use permit and
9 entry permit holder;

10 (B) posting the notice in at least three public places in the
11 administrative area in which the fishery occurs; and

12 (C) publishing the notice in at least one newspaper of general
13 circulation in the administrative area in which the fishery occurs at least once a
14 week for two consecutive weeks before the meeting;

15 (3) the qualified salmon fishery association shall mail two ballots to
16 each eligible interim-use permit and entry permit holder; the first ballot shall be
17 mailed not more than 45 days before the date ballots must be postmarked to be
18 counted in the election; the second ballot shall be mailed not less than 15 days before
19 the date ballots must be postmarked to be counted in the election; the qualified salmon
20 fishery association shall adopt procedures to ensure that only one ballot from each
21 eligible interim-use permit and entry permit holder is counted in the election;

22 (4) the ballot must

23 (A) state that all salmon sold in the fishery are subject to the
24 salmon fishery assessment;

25 (B) state the rate of the assessment to be levied under
26 AS 43.76.220 and the date on which the assessment would terminate under
27 AS 43.76.250(a);

28 (C) ask the question whether the salmon fishery assessment
29 addressed on the ballot shall be approved, amended, or terminated, as
30 appropriate;

31 (D) indicate the fishery for which the salmon fishery

1 assessment will be levied or terminated;

2 (E) provide an effective date for the approval, amendment, or
3 termination of the salmon fishery assessment; and

4 (F) indicate the date on which returned ballots must be
5 postmarked in order to be counted;

6 (5) the ballots shall be returned by mail and shall be counted by an
7 auditor selected by the qualified salmon fishery association and approved by the
8 commissioner of fish and game; the qualified salmon fishery association shall pay the
9 costs of counting the ballots.

10 (d) The commissioner of fish and game shall certify the results of an election
11 under this section if the commissioner determines that the requirements of (a) and (c)
12 of this section have been satisfied.

13 (e) A qualified salmon fishery association may employ or contract with
14 another person to administer an election under this section subject to the supervision
15 of the association.

16 (f) Except as otherwise provided under AS 43.76.240 and 43.76.250, an
17 election to amend the rate or termination date of a salmon fishery assessment or to
18 terminate a salmon fishery assessment shall be conducted under the same procedures
19 established under (a), (c), and (d) of this section for an election to approve a salmon
20 fishery assessment.

21 (g) In this section, "eligible interim-use permit and entry permit holder" means
22 an individual who, 90 days before the date ballots must be postmarked to be counted
23 in an election under this section, is listed in the records of the Alaska Commercial
24 Fisheries Entry Commission as the legal holder of an interim-use permit for salmon
25 fishing gear or an entry permit for salmon fishing gear that authorizes the individual to
26 fish commercially in the salmon fishery for which the salmon fishery assessment is to
27 be approved, amended, or terminated.

28 **Sec. 43.76.240. Amendment of salmon fishery assessment.** (a) The rate or
29 termination date of the salmon fishery assessment levied on salmon under
30 AS 43.76.220 may be amended by the commissioner of revenue upon a two-thirds
31 majority vote at an election held under AS 43.76.230 among the eligible permit

1 holders for the fishery in which the salmon fishery assessment is levied.

2 (b) The commissioner of revenue shall amend the rate or termination date of a
3 salmon fishery assessment under (a) of this section following an election among the
4 eligible permit holders for the fishery if

5 (1) a petition that is signed by at least 25 percent of the interim-use
6 permit and entry permit holders in the fishery that is the subject of the petition is
7 presented to the commissioner of fish and game requesting amendment of the rate or
8 termination date of the salmon fishery assessment; the petition must state, as
9 appropriate, the proposed rate or termination date of the salmon fishery assessment to
10 be levied under AS 43.76.220; only a person who holds an interim-use permit or entry
11 permit for the fishery at the time of signing the petition may validly sign the petition;

12 (2) an election is held in accordance with AS 43.76.230; a ballot to
13 amend the rate of the salmon fishery assessment must ask the question whether the
14 rate of the salmon fishery assessment on salmon sold in the fishery shall be amended
15 and must state the salmon fishery assessment to be levied under AS 43.76.220 and the
16 termination date of the assessment if the assessment is amended; a ballot to amend the
17 termination date of the salmon fishery assessment must ask the question whether the
18 termination date of the salmon fishery assessment on salmon sold in the fishery shall
19 be amended and must state the termination date of the salmon fishery assessment if the
20 termination date is amended; the ballot must be worded so that a "yes" vote is for
21 amendment of the salmon fishery assessment and a "no" vote is for continuation of the
22 current salmon fishery assessment;

23 (3) a two-thirds majority of the eligible interim-use permit and entry
24 permit holders in the fishery casts a ballot for the amendment of the salmon fishery
25 assessment; in this paragraph, "eligible interim-use permit and entry permit holder"
26 has the meaning given in AS 43.76.230; and

27 (4) the qualified salmon fishery association provides notice of the
28 election in accordance with AS 43.76.230 within six months after receiving notice
29 from the commissioner of fish and game that a valid petition under (1) of this
30 subsection has been received.

31 **Sec. 43.76.250. Termination of salmon fishery assessment.** (a) The salmon

1 fishery assessment levied under AS 43.76.220 shall be terminated by the
2 commissioner of revenue on the termination date determined at an election held under
3 AS 43.76.230 to establish or amend the assessment.

4 (b) Notwithstanding (a) of this section, the commissioner of revenue shall
5 terminate the salmon fishery assessment before the termination date determined at an
6 election held under AS 43.76.230 to establish or amend the assessment, upon a two-
7 thirds majority vote at an election held under AS 43.76.230 among the eligible permit
8 holders for the fishery in which the salmon fishery assessment is levied.

9 (c) The commissioner of revenue shall terminate a salmon fishery assessment
10 under (b) of this section following an election among the eligible permit holders for
11 the fishery if

12 (1) a petition that is signed by at least 25 percent of the interim-use
13 permit and entry permit holders in the fishery that is the subject of the petition is
14 presented to the commissioner of fish and game requesting termination of the salmon
15 fishery assessment; only a person who holds an interim-use permit or entry permit for
16 the fishery at the time of signing the petition may validly sign the petition;

17 (2) an election is held in accordance with AS 43.76.230; the ballot
18 must ask the question whether the salmon fishery assessment shall be terminated; the
19 ballot must be worded so that a "yes" vote is for continuation of the salmon fishery
20 assessment and a "no" vote is for termination of the salmon fishery assessment;

21 (3) a two-thirds majority of the eligible interim-use permit and entry
22 permit holders in the fishery casts a ballot for the termination of the salmon fishery
23 assessment; in this paragraph, "eligible interim-use permit and entry permit holder"
24 has the meaning given in AS 43.76.230; and

25 (4) the qualified salmon fishery association provides notice of the
26 election in accordance with AS 43.76.230 within six months after receiving notice
27 from the commissioner of fish and game that a valid petition under (1) of this
28 subsection has been received.

29 **Sec. 43.76.260. Collection of assessment.** (a) A buyer who acquires salmon
30 that is subject to a salmon fishery assessment levied under AS 43.76.220 shall collect
31 the salmon fishery assessment at the time of purchase and shall remit the total salmon

1 fishery assessment collected during each month to the department by the last day of
2 the next month.

3 (b) A buyer who collects the salmon fishery assessment shall maintain records
4 of the value of salmon that is subject to the assessment that is purchased in each
5 salmon fishery of the state.

6 (c) The owner of salmon removed from the state is liable for payment of the
7 salmon fishery assessment levied under AS 43.76.220 if, at the time the salmon is
8 removed from the state, the assessment payable on the salmon has not been collected
9 by a buyer. If the owner of the salmon is liable for payment of the salmon fishery
10 assessment under this subsection, the owner shall comply with the requirements under
11 (a) and (b) of this section to remit the assessment to the department and to maintain
12 records.

13 (d) The salmon fishery assessment collected under this section shall be
14 deposited in the state treasury.

15 (e) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and
16 collection of a salmon fishery assessment levied under AS 43.76.220 - 43.76.280.

17 **Sec. 43.76.270. Funding for qualified salmon fishery associations.** (a) The
18 legislature may make appropriations of revenue collected under AS 43.76.260 to the
19 Department of Fish and Game for funding of the qualified salmon fishery association
20 for the fishery in which the assessment was collected. Funds received under this
21 section by a qualified salmon fishery association may be expended in accordance with
22 the annual operating plan developed under (b) of this section.

23 (b) The Department of Fish and Game may assist a salmon fishery association
24 in developing an annual operating plan. The annual operating plan must describe the
25 activities for which the association intends to expend the funding received under this
26 section, including consolidation of the fishing fleet in the salmon fishery, financial
27 assistance to permit holders in the fishery to promote consolidation of the fishing fleet
28 for the fishery, and administrative activities of the association.

29 (c) A qualified salmon fishery association receiving funding under this section
30 shall submit an annual report to the Department of Fish and Game and to the members
31 of the association describing the activities of the association and how those activities

1 are consistent with the articles of incorporation and bylaws of the association.

2 (d) This section does not establish a dedication of a state tax or license.

3 (e) This section does not restrict or qualify the authority of the Department of
4 Fish and Game or the Board of Fisheries under AS 16.

5 **Sec. 43.76.280. Definitions.** In AS 43.76.220 - 43.76.280,

6 (1) "administrative area" means an area established by the Alaska
7 Commercial Fisheries Entry Commission under AS 16.43.200 for regulating and
8 controlling entry into salmon fisheries;

9 (2) "buyer" has the meaning given in AS 43.76.040;

10 (3) "fishery" has the meaning given in AS 16.43.990;

11 (4) "qualified salmon fishery association" means an association that is
12 qualified under AS 16.40.250;

13 (5) "salmon" means salmon sold under the authority of a limited entry
14 permit or interim-use permit issued under AS 16.43 for salmon;

15 (6) "sold" means the transfer of ownership of salmon from an interim-
16 use permit or entry permit holder to a buyer at the first point of sale;

17 (7) "value" has the meaning given in AS 43.75.290.

18 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).