



# **LAWS OF ALASKA**

**2004**

**Source**  
HB 341

**Chapter No.**  
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## **AN ACT**

Relating to the dive fishery management assessment.

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

THE ACT FOLLOWS ON PAGE 1



AN ACT

1 Relating to the dive fishery management assessment.

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3 \* **Section 1.** AS 43.76.150 is amended to read:

4           **Sec. 43.76.150. Dive fishery management assessment.** (a) A dive fishery  
5 management assessment on fishery resources taken by dive gear shall be levied on the  
6 value of the fishery resource taken in a dive gear fishery. The species of fishery  
7 resources subject to the assessment and the rate of the assessment, as determined  
8 under **(b) - (h)** [(b) - (e)] of this section, shall be determined by an election under  
9 AS 43.76.160.

10           (b) A person holding a limited entry permit for dive gear or an interim-use  
11 permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
12 assessment of one percent on a species of fishery resources that is subject to the  
13 assessment as determined by an election under AS 43.76.160, that is taken by dive  
14 gear, and that the person removes from the state or transfers to a buyer in the state.

15           (c) **A person holding a limited entry permit for dive gear or an interim-**

1 use permit for dive gear issued under AS 16.43 shall pay a dive fishery  
2 management assessment of two percent on a species of fishery resources that is  
3 subject to the assessment as determined by an election under AS 43.76.160, that is  
4 taken by dive gear, and that the person removes from the state or transfers to a  
5 buyer in the state.

6 (d) A person holding a limited entry permit for dive gear or an interim-use  
7 permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
8 assessment of three percent on a species of fishery resources that is subject to the  
9 assessment as determined by an election under AS 43.76.160, that is taken by dive  
10 gear, and that the person removes from the state or transfers to a buyer in the state.

11 (e) A person holding a limited entry permit for dive gear or an interim-  
12 use permit for dive gear issued under AS 16.43 shall pay a dive fishery  
13 management assessment of four percent on a species of fishery resources that is  
14 subject to the assessment as determined by an election under AS 43.76.160, that is  
15 taken by dive gear, and that the person removes from the state or transfers to a  
16 buyer in the state.

17 (f) [(d)] A person holding a limited entry permit for dive gear or an interim-  
18 use permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
19 assessment of five percent on a species of fishery resources that is subject to the  
20 assessment as determined by an election under AS 43.76.160, that is taken by dive  
21 gear, and that the person removes from the state or transfers to a buyer in the state.

22 (g) A person holding a limited entry permit for dive gear or an interim-  
23 use permit for dive gear issued under AS 16.43 shall pay a dive fishery  
24 management assessment of six percent on a species of fishery resources that is  
25 subject to the assessment as determined by an election under AS 43.76.160, that is  
26 taken by dive gear, and that the person removes from the state or transfers to a  
27 buyer in the state.

28 (h) [(e)] A person holding a limited entry permit for dive gear or an interim-  
29 use permit for dive gear issued under AS 16.43 shall pay a dive fishery management  
30 assessment of seven percent on a species of fishery resources that is subject to the  
31 assessment as determined by an election under AS 43.76.160, that is taken by dive

1 gear, and that the person removes from the state or transfers to a buyer in the state.

2 **(i)** [(f)] A dive fishery management assessment may only be levied or  
3 collected on a fishery resource in an administrative area if

4 (1) there exists in that administrative area an association determined by  
5 the commissioner of fish and game to be a qualified regional dive fishery development  
6 association under AS 16.40.240; and

7 (2) the species of fishery resource subject to the dive fishery  
8 management assessment and the rate of the dive fishery management assessment, as  
9 provided under **(b) - (h)** [(b) - (e)] of this section, is approved by an election under  
10 AS 43.76.160.

11 \* **Sec. 2.** AS 43.76.160(b) is amended to read:

12 (b) The dive fishery management assessment is levied under AS 43.76.150(b),  
13 (c), (d), [OR] (e), **(f), (g), or (h)** in an administrative area on the effective date stated  
14 on the ballot if

15 (1) the assessment is approved by a majority vote of the eligible  
16 interim-use permit and entry permit holders voting in an election held in the  
17 administrative area under this section; and

18 (2) the election results are certified by the commissioner of fish and  
19 game.

20 \* **Sec. 3.** AS 43.76.160(c) is amended to read:

21 (c) In conducting an election under this section, a qualified regional dive  
22 fishery development association shall adopt the following procedures:

23 (1) the qualified regional dive fishery development association in the  
24 administrative area shall hold at least one public meeting not less than 30 days before  
25 the date on which ballots must be postmarked to be counted in the election to explain,  
26 as appropriate, the reason for approval or amendment of the proposed dive fishery  
27 management assessment, the reason for the proposed rate of the dive fishery  
28 management assessment, or the reason for termination of the dive fishery management  
29 assessment and to explain the registration and voting procedure to be used in the  
30 election; the qualified regional dive fishery development association shall provide  
31 notice of the meeting by

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

3 (B) posting the notice in at least three public places in the  
4 administrative area; and

5 (C) publishing the notice in at least one newspaper of general  
6 circulation in the administrative area at least once a week for two consecutive  
7 weeks before the meeting;

8 (2) the qualified regional dive fishery development association shall  
9 mail two ballots to each eligible interim-use permit and entry permit holder; the first  
10 ballot shall be mailed not more than 45 days before the date ballots must be  
11 postmarked to be counted in the election; the second ballot shall be mailed not less  
12 than 15 days before the date ballots must be postmarked to be counted in the election;  
13 the qualified regional dive fishery development association shall adopt procedures to  
14 ensure that only one ballot from each eligible interim-use permit and entry permit  
15 holder is counted in the election;

16 (3) the ballot must

17 (A) indicate the species of fishery resources subject to the dive  
18 fishery management assessment;

19 (B) indicate whether the election relates to a dive fishery  
20 management assessment under AS 43.76.150(b), (c), (d), [OR] (e), (f), (g), or  
21 (h);

22 (C) ask the question whether the dive fishery management  
23 assessment on the fishery resources addressed on the ballot shall be approved,  
24 amended, or terminated, as appropriate;

25 (D) indicate the boundaries of the administrative area in which  
26 the dive fishery management assessment will be levied or terminated;

27 (E) provide an effective date for the approval, amendment, or  
28 termination of the dive fishery management assessment; and

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

31 (4) the ballots shall be returned by mail and shall be counted by an

1 auditor selected by the qualified regional dive fishery development association and  
2 approved by the commissioner of fish and game; the qualified regional dive fishery  
3 development association shall pay the costs of counting the ballots.

4 \* **Sec. 4.** AS 43.76.170 is amended to read:

5 **Sec. 43.76.170. Amendment of dive fishery management assessment. (a)**

6 The rate of the dive fishery management assessment levied on a species of fishery  
7 resources under AS 43.76.150(b), (c), (d), [OR] (e), **(f), (g), or (h)** may be amended by  
8 the commissioner of revenue upon majority vote at an election held under  
9 AS 43.76.160 in the administrative area in which the dive fishery management  
10 assessment is levied.

11 (b) The commissioner of revenue shall amend the rate of a dive fishery  
12 management assessment under (a) of this section following an election in an  
13 administrative area if

14 (1) a petition, that is signed by at least 25 percent of the number of  
15 persons who voted under AS 43.76.160 in the most recent election approving or  
16 amending the dive fishery management assessment on the species of fishery resources  
17 in the administrative area that are the subject of the petition, is presented to the  
18 commissioner of fish and game requesting amendment of the rate of the dive fishery  
19 management assessment on a species of fishery resources; the petition must state  
20 whether the proposed rate of the dive fishery management assessment is to be levied  
21 under AS 43.76.150(b), (c), (d), [OR] (e), **(f), (g), or (h)**; only a person who would be  
22 eligible to vote in an election to amend the rate of the assessment may validly sign the  
23 petition;

24 (2) an election is held in accordance with AS 43.76.160; the ballot  
25 must ask the question whether the dive fishery management assessment on a species of  
26 fishery resources taken in the administrative area shall be amended and must state  
27 whether the dive fishery management assessment on the species of fishery resources is  
28 to be levied under AS 43.76.150(b), (c), (d), [OR] (e), **(f), (g), or (h)** if the assessment  
29 is amended; the ballot must be worded so that a "yes" vote is for amendment of the  
30 dive fishery management assessment and a "no" vote is for continuation of the current  
31 dive fishery management assessment;

1 (3) a majority of the eligible interim-use permit and entry permit  
2 holders who vote in the election cast a ballot for the amendment of the dive fishery  
3 management assessment; in this paragraph, "eligible interim-use permit and entry  
4 permit holders" has the meaning given in AS 43.76.160; and

5 (4) the qualified regional dive fishery development association  
6 provides notice of the election in accordance with AS 43.76.160 within two months  
7 after receiving notice from the commissioner of fish and game that a valid petition  
8 under (1) of this subsection has been received.

9 \* **Sec. 5.** AS 43.76.180(a) is amended to read:

10 (a) The dive fishery management assessment levied on a species of fishery  
11 resources under AS 43.76.150(b), (c), (d), [OR] (e), **(f), (g), or (h)** shall be terminated  
12 by the commissioner of revenue upon majority vote at an election held under  
13 AS 43.76.160 in the administrative area in which the dive fishery management  
14 assessment is levied.

15 \* **Sec. 6.** AS 43.76.190(a) is amended to read:

16 (a) A buyer who acquires a fishery resource that is subject to a dive fishery  
17 management assessment levied under AS 43.76.150(b), (c), (d), [OR] (e), **(f), (g), or**  
18 **(h)** shall collect the dive fishery management assessment at the time of purchase and  
19 shall remit the total dive fishery management assessment collected during each  
20 calendar quarter to the Department of Revenue by the last day of the month following  
21 the end of the calendar quarter. In this subsection, "calendar quarter" means each of  
22 the three-month periods ending March 31, June 30, September 30, and December 31.

23 \* **Sec. 7.** AS 43.76.190(c) is amended to read:

24 (c) The owner of fishery resources removed from the state is liable for  
25 payment of the dive fishery management assessment levied under AS 43.76.150(b),  
26 (c), (d), [OR] (e), **(f), (g), or (h)** if, at the time the fishery resource is removed from  
27 the state, the assessment payable on the fishery resource has not been collected by a  
28 buyer. If the owner of the fishery resource is liable for payment of the dive fishery  
29 management assessment under this subsection, the owner shall comply with the  
30 requirements under (a) and (b) of this section to remit the assessment to the  
31 Department of Revenue and to maintain records.