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Bullard  
4/18/18

**CS FOR SENATE BILL NO. 135( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR MICCICHE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission;**  
2 **requiring certain set net fishers to vote on the question of whether their entry permits**  
3 **shall be subject to a state buy-back program; establishing a buy-back program for**  
4 **certain set net entry permits; providing for the termination of set net site leases held by**  
5 **individuals who participate in the entry permit buy-back program; providing for a**  
6 **condition on future leases of certain state land; and providing for an effective date."**

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

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

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

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

1 FINDINGS. The Alaska State Legislature finds that it is in the public interest to  
2 reduce the number of commercial set net fishers on the east side of Cook Inlet to allow more  
3 fish for in-river users and to create a more economically viable and sustainable set net fishery.

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

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

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

10 (c) Notwithstanding (a) and (b) of this section, for the purposes of issuing  
11 entry permits and controlling entry into the commercial set net fishery on the east side  
12 of Cook Inlet, the commission shall establish the area administered on December 31,  
13 2018, identified by the Department of Fish and Game as of January 1, 2018, as  
14 statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of the Eastern  
15 Set Net Subdistrict of the Cook Inlet Central District as a distinct administrative area  
16 separate from the Cook Inlet Central District.

17 (d) An individual who holds an entry permit that entitles the person to set net  
18 commercially in the area that was administered on December 31, 2018, by the  
19 commission as the Cook Inlet Central District may not set net commercially in the  
20 area established under (c) of this section.

21 \* **Sec. 5.** AS 38.05.082 is amended by adding a new subsection to read:

22 (g) Notwithstanding (a) - (d) of this section, the director may not enter into a  
23 new lease for shore fisheries development for shore gill net fishing on the east side of  
24 Cook Inlet in the area administered by the Alaska Commercial Fisheries Entry  
25 Commission on December 31, 2018, identified by the Department of Fish and Game  
26 as of January 1, 2018, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and  
27 244-42 of the Eastern Set Net Subdistrict of the Cook Inlet Central District. However,  
28 the director may extend or renew an existing lease, or accept assignment or sublease of  
29 an existing lease, for shore fisheries development for shore gill net fishing.

30 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

1           TRANSITION: REASSIGNMENT OF COOK INLET CENTRAL DISTRICT SET  
2 NET ENTRY PERMITS. (a) On January 1, 2019, an individual holding an entry permit for  
3 the Cook Inlet set net fishery shall be reassigned an entry permit for the Cook Inlet Central  
4 District set net fishery, consistent with the boundaries of that administrative area established  
5 under AS 16.43.200, as amended by secs. 3 and 4 of this Act, unless the individual provides  
6 proof satisfactory to the Alaska Commercial Fisheries Entry Commission of the individual's  
7 participation in the fishery in the areas identified by the Department of Fish and Game as of  
8 January 1, 2018, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of  
9 the Eastern Set Net Subdistrict of the Cook Inlet Central District within the two years  
10 preceding December 31, 2018. Proof satisfactory of participation under this subsection may  
11 include a shore fisheries lease, an area registration, or previous submission of fishing statistics  
12 for the area.

13           (b) An individual who provides proof satisfactory to the Alaska Commercial Fisheries  
14 Entry Commission of the individual's participation in the fishery in the areas identified by the  
15 Department of Fish and Game as of January 1, 2018, as statistical areas 244-21, 244-22, 244-  
16 31, 244-32, 244-41, and 244-42 of the Eastern Set Net Subdistrict of the Cook Inlet Central  
17 District under (a) of this section shall be reassigned an entry permit on January 1, 2019, for  
18 the new administrative area established under AS 16.43.200(c), enacted by sec. 4 of this Act.

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

21           ELECTION FOR COMMERCIAL SET NET FISHING PERMIT BUY-BACK  
22 PROGRAM. (a) On March 1, 2019, the commission, with the cooperation of the Department  
23 of Natural Resources, shall conduct an election among individuals qualified under (b) of this  
24 section on the question of whether to establish an entry permit buy-back program under sec. 8  
25 of this Act.

26           (b) An individual is eligible to vote in the election conducted under (a) of this section  
27 if the individual holds an entry permit for set net fishing in the administrative area established  
28 under AS 16.43.200(c), enacted by sec. 4 of this Act.

29           (c) In conducting the election under this section, the commission shall adopt the  
30 following procedures:

31               (1) not less than 30 days before the date on which ballots must be postmarked

1 to be counted in the election, the commission shall hold at least one public meeting to explain  
2 the buy-back program to eligible voters and other interested persons and to explain the  
3 registration and voting procedure to be used in the election; the commission shall provide  
4 notice of the meeting by

5 (A) mailing the notice to each eligible entry permit holder;

6 (B) posting the notice in at least three public places in the voting  
7 region; and

8 (C) publishing the notice in at least one newspaper of general  
9 circulation in the voting region at least once a week for two consecutive weeks before  
10 the meeting;

11 (2) the commission shall mail two ballots to each eligible entry permit holder;  
12 the commission shall mail the first ballot not more than 45 days before the date on which  
13 ballots must be postmarked to be counted in the election; the commission shall mail the  
14 second ballot not less than 15 days before the date on which ballots must be postmarked to be  
15 counted in the election; the commission shall adopt procedures to ensure that only one ballot  
16 from each eligible entry permit holder is counted in the election;

17 (3) the ballot must

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

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

22 (C) clarify the details of the buy-back program, including the entry  
23 permit buy-back price to be offered by the commission under sec. 8 of this Act if the  
24 program is approved;

25 (D) provide an effective date for the initiation of the entry permit buy-  
26 back program if the program is approved; and

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

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

31 (d) If the commission determines that the procedural requirements of (c) of this

1 section have been satisfied, the commission shall certify the results of the election within 45  
2 days after the date on which ballots must be postmarked.

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

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

7 **COMMERCIAL SHORE SET NET ENTRY PERMIT BUY-BACK PROGRAM.** (a)  
8 If, in the election held under sec. 7 of this Act, the voters approve the buy-back program  
9 established by this section, an individual who holds a commercial fishing set net entry permit  
10 for the administrative area established under AS 16.43.200(c), enacted by sec. 4 of this Act,  
11 may, subject to (c) of this section, sell the individual's entry permit to the commission.  
12 Participation in the buy-back program established under this section is voluntary.

13 (b) The commission shall purchase permits from individuals qualified under (a) of  
14 this section whose permits are without encumbrances through a lottery purchase procedure.  
15 An individual eligible under (a) of this section may apply to have the individual's entry permit  
16 purchased by the commission under this section. The lottery buy-back procedure must provide  
17 that the commission shall hold a lottery each year for a period of three years, with each of the  
18 annual lotteries buying back approximately 13 percent of the permits fished in the area in  
19 2017 until the number of commercial set net entry permits fished in the new administrative  
20 area established under AS 16.43.200(c), enacted by sec. 4 of this Act, is reduced by 40  
21 percent from the number of set net entry permits fished in that geographic area in 2017.  
22 Subject to legislative appropriation, and with the agreement of the permit holder, the  
23 commission shall purchase the entry permit of an individual selected in a lottery under this  
24 section for \$260,000. If an applicant selected in a lottery or otherwise eligible for the buy-  
25 back offer under this section elects not to participate in the buy-back program or fails to sign  
26 the contract of sale within a period of time specified by the commission, the commission shall  
27 offer to buy back the entry permit of another lottery applicant, selected according to the order  
28 in which applicants' names were drawn.

29 (c) Entry permits purchased by the commission under this section shall be cancelled.  
30 The commission may not reissue a permit or issue another permit in the place of a cancelled  
31 permit.

(d) An individual whose entry permit is purchased by the commission under this section shall be provided the option of accepting payment in three annual installments.

(e) When the commission purchases an entry permit under (b) of this section from an individual holding a lease under AS 38.05.082, the commission shall provide the Department of Natural Resources with notice of the sale, the seller's identity, and the affected lease under AS 38.05.082.

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

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

(2) prohibit future leases of the property for shore gill net fishing as provided under AS 38.05.082(g), enacted by sec. 5 of this Act.

(g) The acquisition of entry permits under this section is not subject to AS 36.30 (State Procurement Code).

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

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

CONDITIONAL EFFECT FOR SEC. 8; NOTIFICATION TO LIEUTENANT GOVERNOR AND REVISOR OF STATUTES. (a) Section 8 of this Act takes effect only if, before June 1, 2019, the chair of the Alaska Commercial Fisheries Entry Commission provides written notice to the lieutenant governor and the revisor of statutes under (b) of this section.

(b) The chair of the Alaska Commercial Fisheries Entry Commission designated under AS 16.43.020 shall, before June 1, 2019, notify the lieutenant governor and the revisor of statutes in writing if the election to approve or disapprove the entry permit buy-back program held under sec. 7 of this Act resulted in an affirmative majority and was certified as required under sec. 7 of this Act.

**\* Sec. 10.** AS 16.43.200(c) and (d), enacted by sec. 4 of this Act, take effect January 1, 2019.

**\* Sec. 11.** If, under sec. 9 of this Act, sec. 8 of this Act takes effect, it takes effect July 1,

1 2019.

2 \* **Sec. 12.** Except as provided in secs. 10 and 11 of this Act, this Act takes effect July 1,  
3 2018.