

ALASKA LEGISLATURE

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Sitka, Alaska 99835 (May – Dec.)
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HB 366 – Community Permit Banks

Sectional Analysis, Version S

Section 1

Adds, to uncodified law, legislative findings regarding the importance of fisheries access and opportunity to Alaska communities.

Section 2

Conforming amendment to existing law. Ensures that a person fishing with a permit from a permit bank has follow the same rules regarding physical presence during operation of stationary fishing gear as any other permit holder.

Section 3

Conforming amendment to existing law. Allows a person fishing with a permit accessed via a permit bank to operate commercial fishing gear.

Section 4

Conforming amendment to existing law. Clarifies that a person fishing with a permit accessed via a permit bank need not hold a crewmember fishing license in order to engage in commercial fishing.

Section 5

Conforming amendment to existing law. Prohibits a person fishing with a permit accessed via a permit bank from obtaining a seven-day crewmember fishing license.

Section 6

Conforming amendment to existing law. Clarifies that AS 16.05.480 applies equally to permit holders and persons fishing with a permit accessed via a permit bank.

Section 7

Conforming amendment to existing law. Clarifies that a person fishing with a permit accessed via a permit bank can lawfully deliver and land fish in the state.

Section 8

Conforming amendment to existing law. Clarifies that a person fishing with a permit accessed via a permit bank can lawfully harvest, transport, and sell fish.

Section 9

Prohibits a permit bank from providing a permit to a person whose commercial fishing privileges are pending a suspension proceeding.

Section 10

Conforming amendment to existing law. Allows fish buyers and processors to legally purchase fish from a person fishing with a permit accessed via a permit bank.

Section 11

Conforming amendment to existing law. Allows a person fishing with a permit accessed via a permit bank to participate in hatchery openings and makes that person subject to hatchery assessments.

Section 12

Allows a person fishing with a permit accessed via a permit bank to participate in forming an association to levy and collect an assessment for the purposes of securing a loan from the fisheries enhancement loan program.

Section 13

Conforming amendment to existing law. Clarifies that a person fishing with a permit accessed via a permit bank to operate commercial fishing gear.

Section 14

Conforming amendment to existing law. Clarifies that a person fishing with a permit accessed via a permit bank can operate commercial fishing gear.

Section 15

Conforming amendment to existing law. Allows publicly controlled permit banks to lease limited entry permits.

Section 16

Allows a limited entry permit holder to will his or her permit to a publicly controlled permit bank upon death.

Section 17

Prohibits a person fishing with a permit accessed via a permit bank from transferring the permit in the event of the person's death and from voluntarily relinquishing the permit to the state.

Section 18

States that a person fishing with a permit accessed via a permit bank is not eligible for income-based reductions in Commercial Fisheries Entry Commission fees.

Section 19

Conforming amendment to existing law. Makes it possible for a publicly controlled permit bank to lease state limited entry permits.

Section 20

If the number of entry permits in a fishery is less than the optimum number, provides the option for the Commercial Fisheries Entry Commission to issue new permits to permit banks in addition to other applicants.

Section 21

Requires a permit bank to be notified if a person accessing a permit from the bank is assessed points for a fishing violation in a salmon fishery.

Section 22

A permit holder who is suspended from commercially fishing for salmon cannot participate in that fishery with a permit accessed via a permit bank.

Section 23

Applies rules for suspension from a commercial salmon fishery equally to a person fishing with a permit accessed via a permit bank.

Section 24

Includes community permit banks in the definition of person for the purposes of chapter AS 16.43.

Section 25

Sec 16.44.010: Authorizes the creation of community permit banks as public corporations of the state, administratively located within the Department of Commerce, Community, and Economic Development (DCCED). Requires DCCED, in consultation with the Department of Fish and Game, to establish permit bank regions based on the Commercial Fisheries Entry Commission's salmon administrative areas (see Section 39 also).

A permit bank may be established in a region upon joint application of 2/3 of the municipalities in the region, and upon a finding by DCCED that establishing a permit bank would prevent economic distress among fishermen, improve access to fisheries for state residents, and assist communities in becoming economically self-sufficient. If the municipalities within a region do not apply to create a permit bank, no permit bank will exist in that region. Sec 16.44.010 also grants DCCED the authority to audit permit banks and dissolve permit banks that become financially insolvent.

Sec 16.44.020: Describes the governance of community permit banks. Each bank established under Sec 16.44.010 shall be governed by a board of directors appointed by the municipalities within the region. Each municipality may appoint a single member to the board of directors. Board members shall serve staggered three-year terms. The municipalities may choose to allow unincorporated communities to appoint members to the board as well.

Sec 16.44.020 also establishes that a majority of members constitutes a quorum for board business, that board members may not lease permits from a permit bank, that the board shall elect a chair and vice-chair, that the board may create an executive governance committee to which certain board powers are delegated, and that the board may hire a manager. A manager may not lease an entry permit from the permit bank.

Permit banks are also authorized to share administrative resources with other permit banks, with regional hatchery associations, with village or regional Native Corporations, with Alaska regional development organizations (ARDORs), or with other entities created for a purpose related to commercial fishing or services. Unless a permit bank is sharing administrative resources with one of the entities listed above, the permit bank shall be administratively located in the municipality in its region with the greatest number of active entry permits per capita as of January 1, 2016.

Sec 16.44.030: Allows permit bank board members to receive reasonable compensation, but compensation may not exceed the median rate of compensation provided to elected members of municipal governments in the permit bank region.

Requires permit banks to minimize administrative expenses in order to enhance the permit bank's ability to acquire limited entry permits and return maximum benefit to the people within the permit bank region.

Empowers DCCED to adopt regulations governing the administrative expenses of permit bank and the compensation of board members.

In order to ensure permit banks are self-sustaining and do not impose costs on the state, Sec 16.44.030 requires the Commissioner of DCCED to charge fees to permit banks in order to reimburse DCCED for all expenses incurred in connection with DCCED's permit bank-related duties.

Sec 16.44.040: Exempts community permit banks from taxes and assessments of the state, local governments, school districts, and other political subdivisions of the state. Permit banks are not exempt from paying CFEC fees on permits owned by the permit bank. The section also does not exempt lessees

of permits from paying applicable fees, taxes, or assessments, such as the fisheries business tax, applicable fisheries enhancement fees, and seafood development taxes.

Sec 16.44.050: Spells out powers of community permit banks, including the power to adopt bylaws, expand board membership to include unincorporated municipalities, borrow funds for the acquisition of limited entry permits, purchase and sell limited entry permits, lease limited entry permits to qualified lessees, accept grants and donations, and use funds to support programs that assist commercial fishermen.

Sec 16.44.050 requires a permit bank to lease the permits it controls by competitive bid. The permit bank must set lease terms that maintain the financial solvency of the bank, and must invest lease revenue in the purchase of additional entry permits to the greatest extent practicable. In allocating leases, permit banks shall consider factors including the lease applicant's economic and historical dependence on the fishery.

Permit banks shall submit annual reports to DCCED that summarize the permit bank's assets and activities, including the terms and conditions of leases provided by the permit bank.

Sec 16.44.055: Makes limited entry permits acquired by a permit bank the legal property of DCCED. Allows the permit bank to sell or lease a permit subject to approval by the Commissioner of DCCED. Provides that leasing fees and proceeds of permit sales shall be used to pay for the operations of the permit bank and for purchasing additional limited entry permits.

Sec 16.44.060: Permit banks may only acquire permits for fisheries prosecuted within the permit bank region. Limits a permit bank to holding 4% of the entry permits issued for a given fishery. If a fishery has 50 or fewer permits, the permit bank can hold up to two permits for that fishery.

A permit bank must own a number of permits of each permit type within the permit bank region that is proportionally representative of the total number of permits of each permit type within the permit bank region. This requirement does not apply to a permit bank that has acquired 10 or fewer permits. This requirement may also be waived by the Commissioner of DCCED upon petition approved by 2/3 of the permit bank board and upon the Commissioner finding the waiver will help the permit bank achieve its statutory purposes.

Sec 16.44.070: Requires permit banks to establish lease terms for permits that help the permit bank fulfill its statutory purposes. Limits the length of a permit lease to six years. The section also prohibits a person from leasing an entry permit for a particular fishery for more than six cumulative years. Prohibits subleasing of permits accessed via permit banks, but provides for emergency transfers in the case of illness, disability, death, or required military or government service. Also allows a permit bank to create a lease-to-own program.

Sec 16.44.080: Limits permit banks to leasing only to a resident of Alaska, defined as a person who maintains a domicile in the state and does not claim benefits of residency in another state. A permit bank may terminate the lease of a person who no longer fits the residency criteria. The section also

prohibits a permit bank from leasing a permit to a person who hold a permit for that same fishery or a person against whom proceedings are pending to suspend commercial fishing privileges.

Sec 16.44.099: Defines the terms “board,” “commission,” “commissioner,” “department,” “entry permit,” “fishery,” and “permit bank” for the purposes of AS 16.44.

Section 26

Places employees of a permit bank in the exempt service.

Section 27

Requires members of the board of directors of a permit bank to submit the same financial disclosures as other public officers.

Sections 28-30

Allows a person accessing a permit via a permit bank to participate in elections to approve or terminate salmon enhancement taxes.

Sections 31-32

Allows a person accessing a permit via a permit bank to participate in elections to approve or terminate salmon fishery assessments.

Section 33

Requires a person accessing a permit via a permit bank to pay applicable permit buy-back assessments at the same rate as a person who holds a limited entry permit.

Sections 34-36

Allows a person accessing a permit via a permit bank to participate in elections to approve or terminate a seafood development tax.

Section 37

Adds to the duties of the Department of Commerce, Community, and Economic Development the duty to carry out its permit bank-related functions under AS 16.44.

Section 38

Uncodified law requiring the length of terms of the original members of permit bank boards of directors to be determined by lot. Also specifies that a board of directors can include members from unincorporated communities from the beginning, upon request of the municipalities applying to establish a permit bank.

Section 39

Uncodified law stating that the boundaries of permit bank regions shall be based upon the boundaries of CFEC's salmon administrative areas as those areas existing in regulation on the effective date of this act. Each community shall be clearly assigned to a particular permit bank region.

Section 40

Establishes the act's effective date as January 1, 2017.