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Bullard
4/18/17

CS FOR HOUSE BILL NO. 188()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE KREISS-TOMKINS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to commercial fishing entry permits; establishing regional fisheries**
2 **trusts and fisheries trust regions; relating to commercial fishing entry permits held and**
3 **leased by a regional fisheries trust; relating to the duties of the Alaska Commercial**
4 **Fisheries Entry Commission and the Department of Commerce, Community, and**
5 **Economic Development; 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 **LEGISLATIVE FINDINGS.** The legislature finds that

10 (1) the state has an ownership and stewardship interest in the fish that
11 originate in state waters and return to spawn;

12 (2) art. VIII, sec. 15, of the Constitution of the State of Alaska, authorizes the
13 state to limit entry into a fishery for the purposes of resource conservation and preventing

1 economic distress among fishermen and those dependent upon them for a livelihood;

2 (3) to promote the conservation of fisheries and the economic health and
3 stability of commercial fishing in the state, the state began limiting entry into commercial
4 fisheries in 1975;

5 (4) since 1975, there has been a substantial and well-documented decline in
6 the number of limited entry permits held by residents of many Alaska communities;

7 (5) the decline in the number of limited entry permits represents lost jobs, lost
8 economic opportunity, and other economic distress among fishermen, their dependents, and
9 their communities;

10 (6) the state has a compelling interest in promoting the economic self-
11 sufficiency of its communities and ensuring their economic health and vitality;

12 (7) fishing is the most viable economic opportunity in numerous Alaska
13 communities;

14 (8) access to commercial fishing opportunities reduces economic distress and
15 contributes to economic self-sufficiency by providing jobs, income, a local tax base, and
16 greater access to subsistence and other fisheries;

17 (9) access to many commercial fisheries in the state requires significant
18 financial resources, posing a barrier to Alaskans desiring to participate in the state's
19 commercial fisheries;

20 (10) state-chartered regional fisheries trusts would empower communities to
21 prevent economic distress among fishermen, promote fisheries conservation, improve access
22 by Alaskans to fisheries, and realize greater economic self-sufficiency by providing a tightly
23 controlled, additional path of entry into the state's commercial fisheries.

24 * **Sec. 2.** AS 06.26.040(b) is amended to read:

25 (b) This section does not prohibit the use of the word "trust" by a regional
26 fisheries trust established under AS 16.44 or the words "trust" or "trust company"
27 in the name of a corporation that is in existence as of January 1, 2003, and that is not
28 subject to this chapter if the corporation was originally organized under the laws of
29 this state and has not, since the date of its original organization, amended or restated
30 its articles of incorporation to delete from its name the words "trust" or "trust
31 company."

1 * **Sec. 3.** AS 16.05.253(a) is amended to read:

2 (a) The Board of Fisheries may require an individual [A PERSON] who
3 holds a limited entry permit or an interim-use permit under AS 16.43 or who leases a
4 limited entry permit under AS 16.44 to be physically present at a beach or riparian
5 fishing site during the operation of net gear or other stationary fishing gear at the site,
6 except when the permit holder or lessee is at or traveling to or from the location of

7 (1) a sale of fish caught in the gear; or

8 (2) other stationary gear of the permit holder or lessee.

9 * **Sec. 4.** AS 16.05.480(a) is amended to read:

10 (a) A person engaged in commercial fishing shall obtain a commercial fishing
11 license and shall retain the license in possession and readily available for inspection
12 during fishing operations. An entry permit or interim-use permit entitles the holder, or
13 the lessee of the permit under AS 16.44, to participate as a gear operator in the
14 fishery for which the permit is issued and to participate as a crewmember in any
15 fishery. A crewmember fishing license is not transferable and entitles the holder to
16 participate as a crewmember in any fishery.

17 * **Sec. 5.** AS 16.05.480(g) is amended to read:

18 (g) A resident engaged in commercial fishing who is 11 years of age or older
19 and who does not hold or lease an entry permit or an interim-use permit shall, except
20 as provided in (i) of this section, pay a fee of \$60 for an annual crewmember fishing
21 license. A resident engaged in commercial fishing who is less than 11 years of age and
22 who does not hold or lease an entry permit or an interim-use permit shall pay an
23 annual fee of \$5.

24 * **Sec. 6.** AS 16.05.480(i) is amended to read:

25 (i) Notwithstanding (g) and (h) of this section, a resident or nonresident
26 engaged in commercial fishing who does not hold or lease an entry permit or an
27 interim-use permit may obtain one seven-day crewmember fishing license under this
28 subsection annually. A person who obtains a seven-day license is not eligible for
29 another seven-day license in the same license year; however, if a person who obtains a
30 seven-day license pays the full fee for an annual crewmember fishing license under (g)
31 or (h) of this section during the same license year, the person is entitled to receive a

1 refund of the fee for the seven-day license. The department shall adopt regulations
2 establishing a refund procedure. During the period for which the seven-day license is
3 valid, a person who holds a seven-day license may not engage in fishing with a rod
4 and reel while present on a commercial fishing vessel. The fee for a seven-day license
5 is \$30.

6 * **Sec. 7.** AS 16.05.480(j) is amended to read:

7 (j) In this section, "commercial fishing license" includes an entry permit and
8 an interim-use permit issued under AS 16.43, **an entry permit leased from a**
9 **regional fisheries trust under AS 16.44,** and a crewmember fishing license.

10 * **Sec. 8.** AS 16.05.675(a) is amended to read:

11 (a) A person who does not hold **or lease** a limited entry permit or interim-use
12 permit issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671
13 may not deliver or land fish in the state unless the person

14 (1) holds a valid federal permit to operate commercial fishing gear in
15 the fishery conservation zone; and

16 (2) has been issued a landing permit by the Alaska Commercial
17 Fisheries Entry Commission.

18 * **Sec. 9.** AS 16.05.680(a) is amended to read:

19 (a) It is unlawful for a person, or an agent or representative of the person,

20 (1) to employ, in the harvesting, transporting, or purchasing of fish, a
21 fisherman who neither is licensed under AS 16.05.480 nor is the holder **or lessee** of a
22 permit issued under AS 16.43;

23 (2) to purchase fish from a person who is not

24 (A) the holder **or lessee** of a limited entry, interim-use, or
25 landing permit issued under AS 16.43;

26 (B) a fish transporter who is selling the fish as the agent of the
27 holder **or lessee** of a limited entry, interim-use, or landing permit issued under
28 AS 16.43; or

29 (C) exempt under AS 16.05.660; or

30 (3) to purchase fish from an association other than one to which a
31 permit has been issued under AS 16.05.662.

1 * **Sec. 10.** AS 16.05.710 is amended by adding a new subsection to read:

2 (e) If proceedings to suspend commercial fishing privileges or licenses under
3 this section are pending against a person, a regional fisheries trust established under
4 AS 16.44.010 may not lease the person a permit.

5 * **Sec. 11.** AS 16.10.265(a) is amended to read:

6 (a) An individual may not, while acting as a fish processor or primary fish
7 buyer, or as an agent, director, officer, member, or employee of a fish processor, of a
8 primary fish buyer, or of a cooperative corporation organized under AS 10.15,
9 intentionally or knowingly make an original purchase of fish from a seller who does
10 not hold

11 (1) a landing permit [, AN ENTRY PERMIT,] or an interim-use
12 permit; [OR]

13 (2) or lease an entry permit under AS 16.44; or

14 (3) a fish transporter permit under AS 16.05.671.

15 * **Sec. 12.** AS 16.10.455(b) is amended to read:

16 (b) A hatchery permit holder may, by a majority vote of the membership of
17 the hatchery permit holder's board, elect to harvest surplus salmon produced at a
18 facility in a terminal harvest area established for that facility through the common
19 property fishery. At the request of the hatchery permit holder and if the commissioner
20 of fish and game determines that there are no allocative issues involved, and after
21 reasonable consultation with affected commercial fishermen and the organizations of
22 affected commercial fishermen, the commissioner may adopt regulations governing
23 the harvest of surplus salmon in a terminal harvest area when the hatchery permit
24 holder elects to harvest surplus salmon produced at a facility through a common
25 property fishery. The regulations must specify the terms, conditions, and rules under
26 which the common property fishery in the terminal harvest area shall be conducted,
27 including requirements for hold inspections and reporting of harvests and sales of
28 salmon taken in the terminal harvest area. Following adoption of regulations by the
29 department, each year before March 10, the hatchery permit holder's board, by a
30 majority vote of the board's membership, may determine whether the hatchery will
31 operate under the regulations adopted under this subsection during the current calendar

year, and shall notify the department if the hatchery intends to operate under the regulations adopted under this subsection. The Board of Fisheries may adopt regulations under AS 16.05.251 regarding a fisheries management plan governing operations under this subsection in a terminal harvest area, including allocation plans. Participation in the fishery must be open to all interim-use permit holders, [AND] entry permit holders, and lessees of entry permits under AS 16.44, who hold or lease permits to operate a type of gear that may be used in the fishing district in which the terminal harvest area is located if that type of gear is authorized by regulation to be used in the terminal harvest area. An interim-use permit holder or an entry permit holder or lessee who takes salmon in a common property fishery in a terminal harvest area may sell the salmon to any fish buyer or processor who is licensed to do business in the state.

* **Sec. 13.** AS 16.43.100(a) is amended to read:

(a) To accomplish the purposes set out in AS 16.43.010, the commission shall

(1) regulate entry into the commercial fisheries for all fishery resources in the state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

(9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) establish and administer the collection of the annual fees provided for in AS 16.43.160;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 - 16.43.390;

(16) establish reasonable user fees for services;

(17) issue landing permits under AS 16.05.675 and regulations adopted under that section;

(18) establish and collect annual fees for the issuance of landing permits that reasonably reflect the costs incurred in the administration and enforcement of provisions of law related to landing permits;

(19) establish a moratorium on entry into commercial fisheries as provided in AS 16.43.225;

(20) when requested by a regional development organization formed under former AS 44.33.895, provide to the organization, without charge, public information contained in the commission's data with respect to relevant fisheries, including limited fisheries, fishery participants, and limited entry permit holders' harvests and earnings; [AND]

(21) administer, when necessary to accomplish the purposes of this chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 - 16.43.521; and

(22) ensure that a regional fisheries trust's portfolio of entry

permits complies with AS 16.44.060 and block the transfer of an entry permit to a regional fisheries trust if the acquisition of the entry permit by the regional fisheries trust would violate AS 16.44.060.

* **Sec. 14.** AS 16.43.140 is amended to read:

Sec. 16.43.140. Permit required. (a) A person may not operate gear in the commercial taking of fishery resources without **holding a valid interim-use permit or holding or leasing, under AS 16.44,** a valid entry permit [OR A VALID INTERIM-USE PERMIT] issued by the commission.

(b) A permit is not required of a crewmember or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the holder **or lessee** of the entry permit or the **holder of the** interim-use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) **An individual** [A PERSON] may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

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

(4) if authorized by regulations of the commission, fishing an entire unit of gear in a fishery in which the commission has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this paragraph, **an individual** [A PERSON] may not hold more than two entry permits for a fishery; however, the **individual** [PERSON] may not

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

(B) acquire a second entry permit for the fishery after the **individual** [PERSON] has acquired an entry permit that authorizes the use of an entire unit of gear in the fishery;

(5) consolidation of the fishing fleet for a salmon fishery; however, **an individual** [A PERSON] may hold not more than two entry permits for a salmon fishery under this paragraph, but the **individual** [PERSON] who holds two entry

permits for a salmon fishery may not engage in fishing under the second entry permit.

* **Sec. 15.** AS 16.43.150(a) is amended to read:

(a) Except as may be otherwise provided under AS 16.43.270(d), an entry permit authorizes the permittee, or an individual leasing the permit under AS 16.44, to operate a unit of gear within a specified fishery.

* **Sec. 16.** AS 16.43.150(b) is amended to read:

(b) The holder or lessee of an entry permit shall have the permit in possession at all times when engaged in the operation of gear for which it was issued.

* **Sec. 17.** AS 16.43.150(g) is amended to read:

(g) Except as provided in AS 16.10.333 - 16.10.338, AS 44.81.215, 44.81.225, and 44.81.231 - 44.81.250, an entry permit may not be

(1) leased, except for the lease of a permit held by a regional fisheries trust established under AS 16.44.010;

(2) [(1)] pledged, mortgaged, [LEASED,] or encumbered in any way;

(3) [(2)] transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

(4) [(3)] attached, distrained, or sold on execution of judgment or under any other process or order of any court, except as provided in AS 16.43.170(g) and (h).

* **Sec. 18.** AS 16.43.150(h) is amended to read:

(h) Unless an entry permit holder has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the permit holder, transfer the permanent permit by right of survivorship directly to the surviving spouse or, if no spouse survives, to a natural person or a regional fisheries trust established under AS 16.44.010 designated by the permit holder on a form provided by the commission. If no spouse survives and if the person or regional fisheries trust designated on the form, if any, does not survive or continue to exist, the permit passes as part of the permit holder's estate. A designation under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the permit holder. Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215, and

44.81.231 - 44.81.250, the permit is exempt from the claims of creditors of the estate.

* **Sec. 19.** AS 16.43.150 is amended by adding new subsections to read:

(j) Subsections (h) and (i) of this section do not apply to a lessee of an entry permit under AS 16.44.

(k) A lessee of an entry permit under AS 16.44 has the same use privilege or right in a fishery that is available to an individual holding an entry permit or valid interim-use permit under this chapter.

* **Sec. 20.** AS 16.43.160(d) is amended to read:

(d) The holder of a permit whose household income, assets, and financial resources fall within the eligibility standards for the food stamp program under 7 U.S.C. 2011 - 2025, as amended, is subject to an annual base fee for the issuance or renewal of an entry permit or an interim-use permit that is equal to 50 percent of the annual base fee that the permit holder would otherwise pay under (c) of this section. In addition to the reduced annual base fee under this subsection, a nonresident who qualifies for a reduced fee under this subsection shall pay the annual nonresident surcharge established under (c) of this section. **This subsection does not apply to a lessee of an entry permit under AS 16.44.**

* **Sec. 21.** AS 16.43.170(a) is amended to read:

(a) Except as provided in AS 16.10.333 - 16.10.338 and [IN] AS 44.81.231 - 44.81.250, entry permits and interim-use permits are transferable only through the commission as provided in this section and AS 16.43.180 and under regulations adopted by the commission. **For purposes of this section, the lease of a permit held by a regional fisheries trust under AS 16.44 is not a transfer of the permit.** An involuntary transfer of an entry permit in a manner inconsistent with the statutes of this state and the regulations of the commission is void.

* **Sec. 22.** AS 16.43.170(b) is amended to read:

(b) Except as provided in (e) of this section, the holder of an entry permit may transfer the permit to another person, **to a regional fisheries trust under AS 16.44,** or to the commission upon 60 **days'** [DAYS] notice of intent to transfer under regulations adopted by the commission. **Not** [NO] sooner than 60 days nor later than 12 months from the date of notice to the commission, the holder of an entry permit

may transfer the permit. If the proposed transferee, other than the commission or a regional fisheries trust, can demonstrate the present ability to participate actively in the fishery, and the transfer does not violate any provision of this chapter or regulations adopted under this chapter, and if a certificate for the permit under AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the commission shall approve the transfer and reissue the entry permit to the transferee if [PROVIDED THAT] neither party is prohibited by law from participating in the transfer.

* **Sec. 23.** AS 16.43.330(a) is amended to read:

(a) When the number of outstanding entry permits for a fishery is less than the optimum number established under AS 16.43.290, the commission shall issue new entry permits to applicants who are presently able to engage actively in the fishery or, subject to AS 16.44.060(a), to regional fisheries trusts established under AS 16.44.010 until the optimum number is reached.

* **Sec. 24.** AS 16.43.850 is amended to read:

Sec. 16.43.850. Point system. (a) For the purpose of identifying frequent violators of commercial fishing laws in salmon fisheries, the commission shall adopt regulations establishing a uniform system for the suspension of commercial salmon fishing privileges by assigning demerit points for convictions for violations of commercial fishing laws in salmon fisheries that are reported to the commission under AS 16.43.880. The commission shall assess demerit points against an individual who holds an entry permit or interim-use permit or who leases an entry permit under AS 16.44 [A PERMIT HOLDER] for each violation of commercial fishing laws in a salmon fishery in accordance with (b) and (c) of this section. The commission shall assess points against an individual holding or leasing a permit [HOLDER] for the salmon fishery in which the violation of commercial fishing laws occurred.

(b) The commission shall assess demerit points against an individual who holds or leases a permit [HOLDER] for a conviction of a violation of commercial fishing laws in a salmon fishery under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 - 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 - 16.10.220, and 16.10.760 - 16.10.790 for the following violations in accordance with

this schedule:

- (1) fishing in closed waters 6 points;
- (2) fishing during closed season or period 6 points;
- (3) fishing with more than the legal amount of gear 4 points;
- (4) fishing with gear not allowed in fishery 6 points;
- (5) fishing before expiration of transfer period 6 points;
- (6) interfering with commercial fishing gear 4 points;
- (7) fishing with more than the legal amount of
gear on vessel 4 points;
- (8) improper operation of fishing gear 4 points;
- (9) permit holder **or permit lessee** not present when required 4 points;
- (10) fishing with underlength or overlength vessel 6 points;
- (11) wanton waste of fishery resources 4 points.

(c) Notwithstanding (b) of this section, if **the** [A PERMIT HOLDER'S] first conviction of a violation of commercial fishing laws in a salmon fishery in a 36-month period **for an individual who holds or leases a permit** is a conviction under AS 16.05.722, the number of demerit points assessed against the permit holder **or the permit lessee** for the violation must be one-half of the points assessed for the violation under (b) of this section.

(d) The commission shall suspend **the** [A PERMIT HOLDER'S] commercial salmon fishing privileges **of a permit holder or lessee** for a salmon fishery for a period of

(1) one year if the permit holder **or lessee** accumulates 12 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery;

(2) two years if the permit holder **or lessee** accumulates 16 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery;

(3) three years if the permit holder **or lessee** accumulates 18 or more points during any consecutive 36-month period as a result of convictions for violations of commercial fishing laws in the salmon fishery.

1 * **Sec. 25.** AS 16.43.855(a) is amended to read:

2 (a) Notice of each assessment of points shall be given to the permit holder **or**
3 **lessee**. Notice shall also be given to the permit holder **or lessee** before the expiration
4 of a suspension of commercial salmon fishing privileges under AS 16.43.850(d) that
5 subsequent violations of commercial fishing laws in the salmon fishery may result in
6 further suspensions of the permit. The notice may be given by first class mail.

7 * **Sec. 26.** AS 16.43.855(c) is amended to read:

8 (c) The assessment of points against a permit holder **or lessee** by the
9 commission under AS 16.43.850 - 16.43.895 is in addition to, and not in substitution
10 for, other provisions of this title and is not a substitute for any penalty imposed by a
11 court.

12 * **Sec. 27.** AS 16.43.855 is amended by adding a new subsection to read:

13 (e) If the commission assesses points under (a) of this section against a lessee
14 of a permit, the commission shall give the regional fisheries trust that leased the permit
15 notice of the assessment of points.

16 * **Sec. 28.** AS 16.43.860 is amended to read:

17 **Sec. 16.43.860. Suspension.** (a) A permit holder **or lessee** whose commercial
18 salmon fishing privileges for a salmon fishery are suspended under AS 16.43.850 -
19 16.43.895 may not obtain an entry permit or interim-use permit for that salmon fishery
20 during the period of the suspension of the privileges. During the period for which the
21 **permit holder's or lessee's** [PERMIT HOLDER'S] privilege to obtain an entry permit
22 or interim-use permit for a salmon fishery is suspended under this section, the
23 commission may not issue a permit card to the permit holder **or lessee** for that fishery.

24 (b) A permit holder **or lessee** whose privilege of obtaining a commercial
25 fishing permit for a salmon fishery is suspended under AS 16.43.850 - 16.43.895 may
26 not

27 (1) engage in the salmon fishery under a crewmember license; [OR]

28 (2) **lease an entry permit for the salmon fishery under AS 16.44; or**

29 (3) lease or rent the **individual's** [PERMIT HOLDER'S] interest in a
30 boat to another person if the boat would be used in the salmon fishery for which the
31 permit holder's **or lessee's** fishing privileges are suspended.

(c) If, during the period for which the commission has suspended the [A PERMIT HOLDER'S] commercial fishing privileges of a permit holder or lessee for a salmon fishery [ARE SUSPENDED], the commission establishes a limited entry system for the salmon fishery, the permit holder or lessee shall be eligible to obtain an entry permit for that fishery to the extent that the permit holder or lessee qualifies for the entry permit under regulations adopted by the commission. If the permit holder or lessee qualifies for an entry permit for the fishery, the commission shall withhold issuance of the entry permit until the period of the suspension imposed under AS 16.43.850 - 16.43.895 has expired.

(d) The commission may not transfer a commercial fishing permit for a salmon fishery under an emergency transfer under AS 16.43.180 if, at the time of the application for the emergency transfer, the permit holder's commercial salmon fishing privileges of the permit holder or lessee for the salmon fishery have been suspended.

* **Sec. 29.** AS 16.43.960(a) is amended to read:

(a) The commission may revoke, suspend, or transfer all entry or interim-use permits, vessel entry permits, or vessel interim-use permits held by a person or entity who knowingly provides or assists in providing false information, or fails to correct false information provided to the commission for the purpose of obtaining a benefit for self or another, including the issuance, renewal, duplication, [OR] transfer, or lease under AS 16.44 of an entry or interim-use permit, vessel license, vessel entry permit, or vessel interim-use permit. The commission may also require a regional fisheries trust to terminate the lease of a permit to a person who knowingly provides or assists in providing false information or fails to correct false information provided to the commission for the purpose of obtaining a benefit for self or another. The commission may suspend, as appropriate, that person's, [OR] entity's, or lessee's eligibility to hold or lease an entry or interim-use permit, vessel entry permit, or vessel interim-use permit for a period not to exceed three years, and may impose an administrative fine of not more than \$5,000 on the person or entity whose officers, employees, representatives, or agents knowingly provide or assist in providing false information, or fail to correct false information provided, to the commission for the purpose of obtaining a benefit.

* **Sec. 30.** AS 16.43.990(3) is amended to read:

(3) "entity" means a corporation, company, partnership, firm, association, organization, joint venture, trust, society, **regional fisheries trust under AS 16.44**, or other legal entity other than a natural person;

* **Sec. 31.** AS 16 is amended by adding a new chapter to read:

Chapter 44. Regional Fisheries Trusts.

Sec. 16.44.010. Establishment and purpose of a regional fisheries trust. (a)

The department may authorize a municipality or municipalities to establish a regional fisheries trust if there is not already a fisheries trust established in that region and at least two-thirds of the municipalities within the fisheries trust region, acting jointly, apply to the department with a business plan and bylaws for the proposed fisheries trust that comply with the requirements of this chapter. The department may not authorize more than three regional fisheries trusts. If there are more applicants to form regional fisheries trusts than available authorizations, the department shall authorize eligible trusts in the order in which the applications were received.

(b) The purpose of a regional fisheries trust established under (a) of this section is to

(1) prevent economic distress among fishermen and those persons dependent upon them for a livelihood;

(2) improve state residents' ability to participate in state fisheries by creating opportunities for those persons with limited alternative economic options and sources of income;

(3) empower communities to achieve economic self-sufficiency; and

(4) promote resource conservation.

(c) The department, in consultation with the Department of Fish and Game, shall establish fisheries trust regions. The department may modify or change the boundaries of the regions for good reason.

(d) Each fisheries trust established under (a) of this section is a public corporation and instrumentality of the state within the Department of Commerce, Community, and Economic Development. The exercise by a fisheries trust of the powers conferred under this chapter is considered to be for a public purpose. For

administrative purposes, the fisheries trusts are in the department, but each fisheries trust has a separate and independent legal existence from the state and shall be governed by a board established under AS 16.44.020.

(e) The department may conduct an annual audit of a fisheries trust established under this section. The department may also conduct supplementary audits as it considers necessary. The results of an audit under this subsection is a public record under AS 40.25.110.

(f) The department may dissolve a fisheries trust if the fisheries trust becomes insolvent. However, nothing in this subsection precludes municipalities in that region from establishing another fisheries trust under (a) of this section.

Sec. 16.44.020. Regional fisheries trust board; membership; meetings; location. (a) Each regional fisheries trust shall be governed by a board of directors, composed of members appointed by the governor under this section.

(b) The governor shall appoint one individual from each municipality wholly or partially located within the fisheries trust region established by the department under AS 16.44.010(c) to serve as a member of a fisheries trust board. The governor shall choose each member appointed under this subsection from a list of nominees provided by each municipality.

(c) If, under AS 16.44.050(a)(2), the municipalities within the fisheries trust region elect to include directors from each unincorporated community within the fisheries trust region on the board of directors for the regional fisheries trust, the governor shall appoint one individual from each unincorporated community within the fisheries trust region. The governor shall choose each member from a list of nominees provided by a single entity or village council in each unincorporated community wholly or partially within the fisheries trust region. A regional fisheries trust board of directors may also vote under AS 16.44.050(a)(2) to allow or prohibit the inclusion of members from an unincorporated community wholly or partially within the fisheries trust region.

(d) An individual appointed under (b) or (c) of this section must be a resident of the municipality or unincorporated community from which the individual was appointed. In each unincorporated community wholly or partially within the fisheries

1 trust region, a single entity or village council eligible to receive a community
2 assistance payment under AS 29.60.865 shall provide the list of nominees from which
3 the governor shall appoint an individual to serve as a member of a regional fisheries
4 trust board of directors.

5 (e) Except as provided under AS 16.44.050(a)(2), a member of a board of a
6 regional fisheries trust shall serve for a term of three years. A member shall hold
7 office for the term of the appointment and until a successor has been appointed and
8 qualified. A member is eligible for reappointment. A vacancy on a board occurring
9 other than by expiration of term shall be filled in the same manner as the original
10 appointment but for the unexpired term only. Terms must be staggered so that one-
11 third, or as close to one-third as practicable, of the terms expire each year. A member
12 may not serve more than 12 cumulative years on the board.

13 (f) A majority of the members of a board constitutes a quorum for the
14 transaction of business and the exercise of the powers and duties of the board except
15 for certain board actions relating to the board's membership under AS 16.44.050(a)(2).

16 (g) A member of a board may not lease an entry permit from the fisheries
17 trust.

18 (h) The members of a board shall annually elect from among themselves a
19 chair and vice-chair and other board officers as may be provided in the bylaws of the
20 fisheries trust. The members of the board may elect to create an executive governance
21 committee and provide that committee some of the board's powers under this chapter.

22 (i) The board of each fisheries trust may hire staff qualified to assist the board
23 in carrying out the provisions of this chapter. If staff is hired, staff compensation shall
24 be reasonable.

25 (j) A fisheries trust may share resources, including staff, with other fisheries
26 trusts established under this chapter if the sharing arrangement is approved by the
27 board of each participating fisheries trust. A fisheries trust may also share resources
28 and staff with a regional association qualified under AS 16.10.380(a), an Alaska
29 Native village or village regional corporation established under 43 U.S.C. 1606
30 (Alaska Native Claims Settlement Act), a regional development organization as
31 defined in AS 44.33.896, or another entity created for a purpose related to commercial

1 fishing or service in the fisheries trust region.

2 (k) Unless a fisheries trust is sharing resources with one or more other entities
3 under (j) of this section, a fisheries trust shall be administratively headquartered in the
4 community in its region with the greatest number of entry permits on January 1, 2017.

5 **Sec. 16.44.030. Administrative expenses, compensation, and fees due the**
6 **department.** (a) A member of a fisheries trust board may be provided reasonable
7 compensation. However, the compensation may not exceed the median rate of
8 compensation provided to the elected members of the municipal governments of the
9 three most populated municipalities within the fisheries trust region. For the purposes
10 of this section, "compensation" does not include reasonable per diem and travel
11 expenses for necessary fisheries trust business purposes.

12 (b) The administrative expenses of a fisheries trust must be reasonable and
13 minimized to enhance the ability of the fisheries trust to acquire entry permits and to
14 return maximum benefit to the persons and region served by the fisheries trust.

15 (c) The department may adopt regulations relating to the administrative
16 expenses of, and compensation provided by, a fisheries trust.

17 (d) The commissioner shall assess fisheries trust fees for the department's
18 actual expenses necessarily incurred by the department in connection with its duties
19 under this chapter relating to the fisheries trust.

20 **Sec. 16.44.040. Exemption from taxation.** (a) Except for fees levied under
21 AS 16.43.160, the real and personal property of a fisheries trust organized under this
22 chapter and its assets, income, and receipts are declared to be devoted to an essential
23 public and governmental function and purpose, and the property, assets, income,
24 receipts, and other interests of the fisheries trust are exempt from taxes and special
25 assessments of the state or a political subdivision of the state, including municipalities,
26 school districts, public utility districts, and other governmental units.

27 (b) Nothing in this section relieves a person leasing an entry permit from a
28 fisheries trust from applicable fees, taxes, or assessments.

29 **Sec. 16.44.050. Powers and duties of a regional fisheries trust.** (a) In
30 addition to all powers necessary to carry out the purposes of this chapter, a fisheries
31 trust may

(1) adopt, amend, and repeal bylaws for its organization, management of its internal affairs, and the conduct of its business consistent with the provisions of this chapter;

(2) if two-thirds of the full membership of the board appointed from the municipalities in the region affirmatively vote under AS 16.44.020(c) to approve the action, expand or reduce the membership of the fisheries trust board of directors by allowing or prohibiting individuals from unincorporated communities in the region to serve as directors;

(3) borrow funds;

(4) subject to the limitations of AS 16.43 and this chapter, hold, transfer, or receive the transfer of an entry permit for a fishery within the fisheries trust region;

(5) accept gifts or grants from a federal agency or an agency or instrumentality of the state, a municipality, a private organization, or another source, including the transfer of an entry permit for a regional fishery or a gift or grant for the acquisition of an entry permit within a specific fishery located in the fisheries trust region;

(6) subject to AS 16.44.070, lease entry permits to individuals qualified under AS 16.44.080 on conditions that the board considers appropriate that may include terms that allow a fisheries trust to transfer a leased permit to a lessee and terminate a lease upon default of a lessee; and

(7) after a fisheries trust acquires the maximum number of entry permits allowed under AS 16.44.060(a), use revenue and other funds to support programs and projects that benefit commercial fishermen within the fisheries trust region.

(b) In a manner consistent with AS 16.44.010(b), a fisheries trust shall

(1) lease entry permits by competitive bid to individuals qualified under AS 16.44.080;

(2) establish criteria for leasing of entry permits acquired by the fisheries trust that ensure the solvency and financial strength of the fisheries trust;

(3) lease entry permits only in accordance with criteria established by

the fisheries trust under (2) of this subsection;

(4) upon request of the commission under AS 16.43.960, terminate the lease of a permit to an individual under this chapter; and

(5) make its criteria for leasing entry permits under (2) of this subsection public, and provide copies to the department and to the Alaska Commercial Fisheries Entry Commission.

(c) In leasing permits by competitive bid under (b)(1) of this section, and subject to criteria adopted under (b)(2) of this section, a fisheries trust may preference bids for the lease of entry permits under (b)(1) of this section in a manner consistent with the purposes of a fisheries trust under AS 16.44.010(b).

Sec. 16.44.055. Disposition of proceeds. Leasing fees and other fisheries trust revenue, subject to legislative appropriation, and less any fees due the department under AS 16.44.030(d), shall be available to a fisheries trust's board of directors to be used

(1) to pay for a fisheries trust's operations;

(2) to finance the acquisition of additional permits; and

(3) subject to AS 16.44.050(a), to support programs and projects that benefit commercial fishermen within the fisheries trust region.

Sec. 16.44.060. Acquisition and holding of entry permits. (a) A fisheries trust may not acquire an entry permit for a fishery that is not in the fisheries trust region. A fisheries trust may not hold more than two and one-half percent of the entry permits issued for a fishery in the fisheries trust region, rounded up to the nearest whole number.

(b) Subject to (a) of this section, a fisheries trust shall hold a variety of types of limited entry permits. To the extent reasonably possible, a fisheries trust shall hold a number of limited entry permits of each type issued within its region, such that the fisheries trust's portfolio of limited entry permits is proportionally representative of all of the limited entry permits of each kind issued within the fisheries trust region.

(c) The commission shall ensure that a portfolio of entry permits held by a fisheries trust complies with the requirements of this section. A fisheries trust may not acquire an entry permit if the commission finds that the acquisition would violate the

requirements of this section.

(d) An entry permit held and leased by a fisheries trust is subject to AS 16.43.150(g).

Sec. 16.44.070. Lease terms for entry permits held by a regional fisheries trust. (a) Subject to (b) of this section, a fisheries trust shall establish lease terms for entry permits held by the fisheries trust in a manner that is consistent with the purpose provided by AS 16.44.010(b).

(b) A lease term for an entry permit held by a fisheries trust may not exceed six years, and an individual may not lease an entry permit or permits for the same fishery for a cumulative period of more than six years, regardless of whether the lease years are consecutive.

(c) An entry permit held by a fisheries trust may not be subleased by the lessee.

(d) A fisheries trust may not impose lease terms that limit the lessee's time, place, manner, or method of fishing or sale of fish.

(e) Subject to (a) of this section and AS 16.43.170(a), a fisheries trust may include terms in a lease that provide for the leased permit to be transferred to the lessee at the end of the period for which the permit was leased.

Sec. 16.44.080. Qualified lessees. (a) A fisheries trust may only lease an entry permit to an individual who is a resident of the state. An applicant for the lease of an entry permit from a fisheries trust under this chapter shall maintain a domicile in the state and may not be a resident of, or have received a benefit based on residency, in another state or country.

(b) A fisheries trust may not lease a permit to

(1) an individual who already holds a limited entry or interim-use permit for the same fishery as the leased permit; or

(2) staff of a fisheries trust employed under AS 16.44.020(i) or of another entity that is shared with the fisheries trust under AS 16.44.020(j).

(c) When an individual no longer maintains a domicile in the state, the individual is no longer eligible to lease an entry permit, and a fisheries trust shall terminate a lease held by the individual.

(d) If proceedings are pending to suspend an individual's commercial fishing privileges, the individual is not eligible to lease an entry permit under this chapter.

(e) In this section, "domicile" means the true and permanent home of an individual from which the individual has no present intention of moving and to which the individual intends to return whenever the individual is away.

Sec. 16.44.099. Definitions. In this chapter,

(1) "board" means the board of a regional fisheries trust;

(2) "commission" means the Alaska Commercial Fisheries Entry Commission;

(3) "commissioner" means the commissioner of commerce community, and economic development;

(4) "department" means the Department of Commerce, Community, and Economic Development unless specifically provided otherwise;

(5) "entry permit" means a commercial fishing entry permit issued under AS 16.43;

(6) "fisheries trust" means a regional fisheries trust established under AS 16.44.010;

(7) "fishery" has the meaning given in AS 16.05.940.

* **Sec. 32.** AS 39.25.110(11) is amended to read:

(11) the officers and employees of the following boards, commissions, and authorities:

(A) [REPEALED

(B)] Alaska Permanent Fund Corporation;

(B) [(C)] Alaska Industrial Development and Export Authority;

(C) [(D)] Alaska Commercial Fisheries Entry Commission;

(D) [(E)] Alaska Commission on Postsecondary Education;

(E) [(F)] Alaska Aerospace Corporation;

(F) [(G)] REPEALED

(H)] Alaska Gasline Development Corporation and subsidiaries of the Alaska Gasline Development Corporation;

(G) a regional fisheries trust established under

AS 16.44.010;

* **Sec. 33.** AS 43.76.040 is amended to read:

Sec. 43.76.040. Definitions [DEFINITION]. In AS 43.76.001 - 43.76.040, unless the context otherwise requires,

(1) "buyer" means a person who acquires possession of salmon from the person who caught the salmon regardless of whether there is an actual sale of the salmon but excluding a transfer to a person engaged solely in interstate transportation of goods for hire;

(2) **"person holding a limited entry permit" or "entry permit holder" means an individual who is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal owner of an entry permit, but does not include the lessee of an entry permit under AS 16.44.**

* **Sec. 34.** AS 43.76.320 is amended to read:

Sec. 43.76.320. Definitions [DEFINITION]. In AS 43.76.300 - 43.76.320,

(1) "buyer" means a person who acquires possession of fish from the person who caught the fish regardless of whether there is an actual sale of the fish, but does not include a person engaged solely in interstate transportation of goods for hire;

(2) **"person holding a limited entry permit" means an individual who is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal owner of an entry permit, but does not include the lessee of an entry permit under AS 16.44.**

* **Sec. 35.** AS 43.76.399 is amended by adding a new paragraph to read:

(5) "person holding a limited entry permit" or "entry permit holder" means an individual who is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal owner of an entry permit, but does not include the lessee of an entry permit under AS 16.44.

* **Sec. 36.** AS 44.33.020(a) is amended by adding a new paragraph to read:

(45) carry out its functions and duties under AS 16.44.

* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Alaska Commercial Fisheries Entry

Commission and the commissioner of commerce, community, and economic development may immediately adopt regulations necessary to implement the provisions of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 38.** The uncoded law of the State of Alaska is amended by adding a new section to read:

INITIAL DIRECTORS OF REGIONAL FISHERIES TRUSTS. Subject to AS 16.44.020(e), added by sec. 31 of this Act, the term of office of each initial director of a regional fisheries trust shall be determined by lot.

* **Sec. 39.** The uncoded law of the State of Alaska is amended by adding a new section to read:

INITIAL ESTABLISHMENT OF FISHERIES TRUST REGIONS. (a) The Department of Commerce, Community, and Economic Development shall, in consultation with the Department of Fish and Game, divide the land area of the state into separate fisheries trust regions to serve as the initial fisheries trust regions under AS 16.44.010(c), added by sec. 31 of this Act, that the Department of Commerce, Community, and Economic Development determines are socially, economically, and politically cohesive, using, to the extent practicable,

(1) the boundaries of the commercial fishing administrative areas established by the Alaska Commercial Fisheries Entry Commission under AS 16.43.200, as those boundaries are described in regulation on the effective date of sec. 31 of this Act; and

(2) the designation of state communities as local or nonlocal to particular fisheries made in the report by the Alaska Commercial Fisheries Entry Commission titled "Changes in the Distribution of Alaska's Commercial Fisheries Entry Permits, 1975 - 2015."

(b) In establishing the initial fisheries trust regional boundaries under (a) of this section, the Department of Commerce, Community, and Economic Development shall, to the extent practicable,

(1) clearly delineate which communities are in each region; and

(2) ensure that a community is not split between regions.

* **Sec. 40.** The uncoded law of the State of Alaska is amended by adding a new section to read:

1 INITIAL ESTABLISHMENT AND AUTHORIZATION OF REGIONAL
2 FISHERIES TRUSTS. A fisheries trust may not be established before January 1, 2019.
3 However, after January 1, 2018, applications to establish a trust under AS 16.44.010(a), added
4 by sec. 31 of this Act, may be filed with the Department of Commerce, Community, and
5 Economic Development. Notwithstanding AS 16.44.010(a), added by sec. 31 of this Act, if,
6 after January 1, 2018, and before January 1, 2019, applicants from more than three fisheries
7 trust regions apply to the Department of Commerce, Community, and Economic Development
8 to establish fisheries trusts for the applicant's respective regions, the commissioner of
9 commerce, community, and economic development shall, in consultation with the
10 commissioner of fish and game, select three of the proposed fisheries trusts to be established
11 based on

12 (1) the degree to which the communities in a fisheries trust region where the
13 establishment of a fisheries trust is proposed have experienced a decline in the number of
14 commercial fishing entry permits issued under AS 16.43 per capita, based on population in
15 the fisheries trust region, since 1980; and

16 (2) the likelihood, as determined by the commissioner of commerce,
17 community, and economic development, on the basis of the submitted business plans and
18 bylaws for the proposed fisheries trusts, that a proposed fisheries trust will achieve the
19 purposes for establishing a fisheries trust under AS 16.44.010(b), added by sec. 31 of this Act.

20 * **Sec. 41.** Sections 37 and 39 of this Act take effect immediately under AS 01.10.070(c).

21 * **Sec. 42.** Except as provided by sec. 41 of this Act, this Act takes effect January 1, 2018.