



LAWS OF ALASKA

1996

Source

CSHB 547(RES) am S

Chapter No.

125

AN ACT

Relating to a four-year moratorium on entry into Southeast Alaska dive fisheries; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 3, 1996

Actual Effective Date: July 4, 1996

AN ACT

1 Relating to a four-year moratorium on entry into Southeast Alaska dive fisheries; and
2 providing for an effective date.

3

4 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

5 (1) the Southeast Alaska dive fisheries for sea cucumber, abalone, and geoduck
6 may be approaching or exceeding the maximum sustainable harvest levels for these fishery
7 resources in the areas where the fisheries occur;

8 (2) the number of divers participating in the Southeast Alaska dive fisheries
9 was precariously high at the end of 1995;

10 (3) a moratorium on entry into the Southeast Alaska dive fisheries is necessary
11 to allow a proper review and analysis of the sea cucumber, abalone, geoduck, and sea urchin
12 fisheries before permanent damage is done to these fishery resources due to the accelerated
13 growth in participation in these fisheries;

14 (4) in recent years the Southeast Alaska dive fishery for sea urchin could not

Chapter 125

1 be opened due to the lack of research and management tools and concern that a large number
2 of new divers would be difficult to manage and may threaten the sustained yield management
3 of the sea urchin resource;

4 (5) individuals who participated in the abalone, sea cucumber, and geoduck
5 fisheries in Southeast Alaska during 1994 and 1995, would have been likely to participate in
6 a sea urchin fishery during those years if a fishery had occurred;

7 (6) current economic dependence on a fishery is best demonstrated by recent
8 participation in, and economic reliance upon, a fishery;

9 (7) information currently available is insufficient to conclude whether entry
10 limitation under AS 16.43 would serve the purposes of AS 16.43;

11 (8) a moratorium on entry into the Southeast Alaska dive fisheries is necessary
12 to provide an opportunity to investigate alternative means of fishing effort regulation that may
13 be more appropriate for these fisheries;

14 (9) it is in the best interests of the state, the communities, and the fishing
15 industry that appropriate management options for the various dive fisheries be identified and
16 implemented as soon as possible in order that the entry moratorium on any or all of the dive
17 fisheries may be lifted;

18 (10) the Southeast Alaska dive fisheries have reached a level of participation
19 that may threaten the conservation of the sea cucumber, abalone, geoduck, and sea urchin
20 resources and the economic health and stability of the sea cucumber, abalone, geoduck, and
21 sea urchin fisheries; and

22 (11) the Alaska Commercial Fisheries Entry Commission has insufficient
23 information to determine whether the establishment of a maximum number of entry permits
24 for the Southeast Alaska dive fisheries under AS 16.43.240 would further the purposes of
25 AS 16.43.

26 * Sec. 2. AS 16.43 is amended by adding a new section to read:

27 Sec. 16.43.228. SOUTHEAST ALASKA DIVE FISHERIES. (a) A person
28 may not take sea cucumber in the Southeast Alaska sea cucumber fishery without an
29 interim-use permit issued by the commission. The commission may not issue an
30 interim-use permit for the Southeast Alaska sea cucumber fishery unless the applicant
31 presents proof satisfactory to the commission that

1 (1) during calendar year 1994 or 1995 the applicant commercially
2 harvested sea cucumber in the Southeast Alaska sea cucumber fishery while holding
3 an interim-use permit for the Southeast Alaska sea cucumber fishery; or

4 (2) during each of the five calendar years 1991, 1992, 1993, 1994, and
5 1995, the applicant commercially harvested sea cucumber, abalone, geoduck, or sea
6 urchin in Southeast Alaska while holding the appropriate interim-use permit.

7 (b) A person may not take abalone in the Southeast Alaska abalone fishery
8 without an interim-use permit issued by the commission. The commission may not
9 issue an interim-use permit for the Southeast Alaska abalone fishery unless the
10 applicant presents proof satisfactory to the commission that

11 (1) during calendar year 1994 or 1995 the applicant commercially
12 harvested abalone in the Southeast Alaska abalone fishery while holding an interim-use
13 permit for the Southeast Alaska abalone fishery; or

14 (2) during each of the five calendar years 1991, 1992, 1993, 1994, and
15 1995, the applicant commercially harvested sea cucumber, abalone, geoduck, or sea
16 urchin in Southeast Alaska while holding the appropriate interim-use permit.

17 (c) A person may not take geoduck in the Southeast Alaska geoduck fishery
18 without an interim-use permit issued by the commission. The commission may not
19 issue an interim-use permit for the Southeast Alaska geoduck fishery unless the
20 applicant presents proof satisfactory to the commission that

21 (1) between January 1, 1994, and January 31, 1996, the applicant
22 commercially harvested geoduck in the Southeast Alaska geoduck fishery while
23 holding an interim-use permit for the Southeast Alaska geoduck fishery; or

24 (2) during each of the five calendar years 1991, 1992, 1993, 1994, and
25 1995, the applicant commercially harvested sea cucumber, abalone, geoduck, or sea
26 urchin in Southeast Alaska while holding the appropriate interim-use permit.

27 (d) A person may not take sea urchin in the Southeast Alaska sea urchin
28 fishery without an interim-use permit issued by the commission. The commission may
29 not issue an interim-use permit for the Southeast Alaska sea urchin fishery unless the
30 applicant presents proof satisfactory to the commission that

31 (1) during calendar year 1992 or 1993, the applicant commercially

Chapter 125

1 harvested sea urchin in the Southeast Alaska sea urchin fishery while holding the
2 appropriate interim-use permit;

3 (2) during calendar year 1994 or 1995, the applicant commercially
4 harvested sea cucumber or abalone in the Southeast Alaska sea cucumber or abalone
5 fishery while holding the appropriate interim-use permit; or

6 (3) between January 1, 1994, and January 31, 1996, the applicant
7 commercially harvested geoduck in the Southeast Alaska geoduck fishery while
8 holding an interim-use permit for the Southeast Alaska geoduck fishery.

9 (e) During the four years that a moratorium established by this section is in
10 effect, the commission shall

11 (1) issue interim-use permits for each fishery subject to (a) - (d) of this
12 section to applicants who satisfy the appropriate qualifications established under (a) -
13 (d) of this section and who establish the present ability and intent to participate
14 actively in the fishery;

15 (2) conduct investigations to determine whether a maximum number
16 of entry permits should be established under AS 16.43.240 for each fishery subject to
17 this section by

18 (A) conducting research into conditions in the fishery;

19 (B) consulting with the Department of Fish and Game and the
20 Board of Fisheries; and

21 (C) consulting with participants in the fishery; and

22 (3) in cooperation with the Department of Fish and Game, conduct
23 investigations to determine whether an alternative form of a nontransferable limited
24 entry or other management program is appropriate for a fishery subject to this section.

25 (f) Notwithstanding AS 16.43.225, for the purposes of this chapter,

26 (1) an interim-use permit issued under this section shall be treated as
27 an interim-use permit issued under AS 16.43.225;

28 (2) a moratorium established under this section shall be treated as a
29 moratorium established under AS 16.43.225.

30 (g) The commission may not consider participation in a fishery, subject to a
31 moratorium on entry under this section, that occurs during the period of the

1 moratorium in determining eligibility for an entry permit that may be issued for the
2 fishery after termination of the moratorium.

3 * Sec. 3. AS 16.43.260(f) is amended to read:

4 (f) When the commission establishes the maximum number of entry permits
5 under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225,
6 an applicant for an entry permit for the fishery shall be assigned to a priority
7 classification based solely upon the applicant's qualifications as of the effective date
8 of the statute or regulation establishing the moratorium.

9 * Sec. 4. AS 16.43.228(a), 16.43.228(b), 16.43.228(c), and 16.43.228(d), added by sec. 2
10 of this Act, are repealed July 1, 2000.

11 * Sec. 5. This Act takes effect July 1, 1996.