



# LAWS OF ALASKA

1997

**Source**  
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**Chapter No.**  
97

## AN ACT

Relating to a vessel permit moratorium for the Alaska weathervane scallop fishery; relating to management of the scallop fisheries; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** June 20, 1997

**Actual Effective Date:** June 21, 1997

AN ACT

1 Relating to a vessel permit moratorium for the Alaska weathervane scallop fishery; relating  
2 to management of the scallop fisheries; and providing for an effective date.

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4 \* **Section 1.** LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that  
5 (1) the scallop fishing fleet in Alaska is overcapitalized;  
6 (2) fishing effort in the Alaska weathervane scallop fishery has reached levels  
7 that may threaten the sustained yield management of the fishery;  
8 (3) weathervane scallops are long-lived animals with few natural predators;  
9 these attributes are common to species that are the most susceptible to overfishing;  
10 (4) the status of many Alaska weathervane scallop stocks is largely unknown,  
11 and the stocks are susceptible to localized depletion and general overfishing;  
12 (5) scallop fisheries around the world have collapsed after relatively short  
13 periods of intense fishing;

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1 (6) scallop dredges may adversely affect important bottom-dwelling species,  
2 such as king crab and Tanner crab, and without careful management may threaten the  
3 conservation of these other fishery resources;

4 (7) the conventional limited entry and moratorium system under AS 16.43  
5 cannot adequately protect the economic health and stability of the Alaska weathervane scallop  
6 fishery or adequately promote the sustained yield management of the Alaska weathervane  
7 scallop fishery;

8 (8) the United States Department of Commerce has taken action to restrict  
9 access to the Alaska weathervane scallop fishery in the waters of the United States exclusive  
10 economic zone adjacent to Alaska;

11 (9) state management of the entire Alaska weathervane scallop fishery will  
12 provide a uniform and comprehensive management regime for the fishery, protect the  
13 economic health and stability of the fishery, and promote sustained yield management of the  
14 fishery;

15 (10) establishment of a moratorium on the issuance of vessel permits to new  
16 vessels seeking to enter the Alaska weathervane scallop fishery promotes the purposes of art.  
17 VIII, sec. 15, Constitution of the State of Alaska, and AS 16.43 while providing an  
18 opportunity to study and evaluate the feasibility of a permanent vessel permit limited entry  
19 system for the Alaska weathervane scallop fishery.

20 (b) It is the intent of the legislature that the Board of Fisheries maintain 100 percent  
21 observer coverage for all vessels engaged in the Alaska weathervane scallop fishery.

22 \* Sec. 2. AS 16.05 is amended by adding a new section to article 5 to read:

23 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume  
24 management of the scallop fisheries in offshore water adjacent to the state in the  
25 absence of a federal fishery management plan for scallops or in the event that a federal  
26 fishery management plan for scallops delegates authority to the state to manage scallop  
27 fisheries in the United States exclusive economic zone.

28 \* Sec. 3. AS 16.43 is amended by adding a new section to read:

29 **Sec. 16.43.906. Vessel permits for weathervane scallop fishery.** (a) The  
30 commission shall issue annual vessel permits for commercial fishing vessels used in  
31 the weathervane scallop fishery. The commission shall issue vessel permits to the

1 vessel upon application by the vessel owner. The commission shall issue separate  
2 vessel permits for each registration area. The weathervane scallop fishery registration  
3 areas are the statewide Alaska weathervane scallop fishery registration area and the  
4 area H weathervane scallop fishery registration area.

5 (b) A vessel permit is a use privilege authorizing the vessel to take  
6 weathervane scallops in the registration area for which the vessel permit is issued. The  
7 use privilege conveyed by a vessel permit may be modified or revoked by the  
8 legislature without compensation.

9 (c) On or after July 1, 1997, a commercial fishing vessel may not be used to  
10 take weathervane scallops in a registration area unless a vessel permit for that  
11 registration area has been issued under this section for the vessel.

12 (d) The commission may not issue a vessel permit under this section to a  
13 commercial fishing vessel for the statewide Alaska weathervane scallop fishery  
14 registration area for the period from June 30, 1997, through June 30, 2001, inclusive,  
15 unless

16 (1) the vessel has landed at least 1,000 pounds of weathervane scallops  
17 that were legally taken in the statewide Alaska weathervane scallop fishery registration  
18 area

19 (A) during calendar year 1995 or 1996; and

20 (B) during each of at least four calendar years between 1984  
21 and 1996, inclusive; or

22 (2) the vessel qualifies for a vessel permit for the area H weathervane  
23 scallop fishery registration area under (e) of this section.

24 (e) The commission may not issue a vessel permit under this section to a  
25 commercial fishing vessel for the area H weathervane scallop fishery registration area  
26 for the period from July 1, 1997, through June 30, 2001, inclusive, unless the vessel  
27 has landed at least 1,000 pounds of weathervane scallops that were legally taken in the  
28 area H weathervane scallop fishery registration area

29 (1) during calendar year 1994 or 1996; and

30 (2) during each of at least three calendar years between 1984 and 1996,  
31 inclusive.

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1 (f) Notwithstanding (d) and (e) of this section, a vessel owner who does not  
2 own a commercial fishing vessel that qualifies for a vessel permit for a scallop fishery  
3 registration area may receive a vessel permit for that registration area if the vessel  
4 owner owned two or more commercial fishing vessels whose combined participation  
5 in the scallop fishery for that registration area would satisfy the requirements for a  
6 vessel permit for that registration area under this section. The commission shall issue  
7 a vessel permit under this subsection to the last commercial fishing vessel that the  
8 vessel owner owned to satisfy the requirements for the vessel permit for the  
9 registration area if the vessel owner still owned that commercial fishing vessel on  
10 July 1, 1997.

11 (g) Notwithstanding (d) - (f) of this section, the commission shall reissue a  
12 vessel permit upon request of a person who is the owner of a vessel for which a vessel  
13 permit has been issued under this section to another vessel owned by the person if the  
14 vessel to which the vessel permit is to be reissued does not have an overall length or  
15 horsepower rating exceeding the length or horsepower rating of the vessel for which  
16 the vessel permit was initially issued. The vessel from which the vessel permit was  
17 transferred may no longer be used in the fishery for which the vessel permit was  
18 issued unless another vessel permit is reissued to the vessel. This subsection does not  
19 authorize the issuance of more vessel permits than are authorized under (d) - (f) of this  
20 section.

21 (h) Use of a vessel in a weathervane scallop fishery on or after July 1, 1997,  
22 may not be used to establish eligibility for a vessel permit for a weathervane scallop  
23 fishery that may be issued after June 30, 2001.

24 (i) Subsections (d) - (h) of this section may be superseded by regulations  
25 adopted by the commission under subsequent legislation enacted by the legislature  
26 authorizing

27 (1) a permanent vessel permit limited entry system for the weathervane  
28 scallop fishery; or

29 (2) termination of the temporary moratorium on issuance of new vessel  
30 permits established by this subsection.

31 (j) An application for a vessel permit under this section must contain the name

1 of each permit holder authorized to operate the vessel in the weathervane scallop  
2 fishery and other information the commission may require to implement this section.  
3 The owner of a vessel for which a vessel permit is issued shall notify the commission  
4 in writing of a change in the permit holders who are authorized to operate the vessel  
5 in the weathervane scallop fishery. In this subsection, "permit holder" means a person  
6 who holds an entry permit or interim-use permit issued under this chapter for the  
7 weathervane scallop fishery.

8 (k) If a commercial fishing vessel that qualifies for a vessel permit under this  
9 section or that is issued a vessel permit under this section is sunk, destroyed, or  
10 damaged to the extent that the vessel is inoperable for a weathervane scallop fishing  
11 season, the commission may, upon the request of the owner of the vessel, reissue the  
12 vessel permit for that fishing season to another commercial fishing vessel with an  
13 overall length and horsepower rating that does not exceed the overall length and  
14 horsepower rating of the vessel that was sunk, destroyed, or damaged.

15 (l) The fee for the annual vessel permit is \$1,000. A vessel permit is valid for  
16 the calendar year that is inscribed on the license.

17 (m) The commission shall, in cooperation with the Department of Fish and  
18 Game, conduct investigations to determine whether an alternative form of  
19 nontransferable vessel or limited entry permit system or other management program  
20 is appropriate for weathervane scallop fisheries in the state.

21 (n) The commission may adopt regulations that the commission considers  
22 necessary to implement this section.

23 (o) In this section,

24 (1) "area H weathervane scallop fishery registration area" means the  
25 marine waters of Cook Inlet north of the latitude of Cape Douglas (58 degrees 52  
26 minutes North latitude) and west of the longitude of Cape Fairfield (148 degrees 50  
27 minutes West longitude);

28 (2) "landed" includes catching or catching and processing of  
29 weathervane scallops taken in state waters or the adjacent United States exclusive  
30 economic zone for sale as evidenced by a Department of Fish and Game fish ticket;

31 (3) "statewide Alaska weathervane scallop fishery registration area"

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1 means the marine waters of the state and the adjacent United States exclusive  
2 economic zone, outside of the area H weathervane scallop fishery registration area.

3 \* **Sec. 4.** AS 16.43.911(c) is amended to read:

4 (c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
5 release to the owner of a vessel information on the vessel's history of harvests in a  
6 [THE KOREAN HAIR CRAB] fishery that is necessary to apply for a vessel permit  
7 under AS 16.43.901 - 16.43.906.

8 \* **Sec. 5.** Section 5, ch. 126, SLA 1996, is amended to read:

9 Sec. 5. AS 16.43.901 [AND 16.43.911], added by sec. 3 of this Act, is [ARE]  
10 repealed July 1, 2000.

11 \* **Sec. 6.** AS 16.43.906, added by sec. 3 of this Act, and AS 16.43.911 are repealed July 1,  
12 2001.

13 \* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).