

SENATE CS FOR CS FOR HOUSE BILL NO. 204(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/12/98

Referred: Rules

Sponsor(s): HOUSE SPECIAL COMMITTEE ON FISHERIES

A BILL

FOR AN ACT ENTITLED

1 "An Act revising the procedures and authority of the Alaska Commercial Fisheries
2 Entry Commission, the Board of Fisheries, and the Department of Fish and Game
3 to establish a moratorium on participants or vessels, or both, participating in
4 certain fisheries; and providing for an effective date."

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

6 * **Section 1.** AS 16.43.150(f) is amended to read:

7 (f) Except for permits that are not transferable under AS 16.43.170(c), [OR]
8 (e), or (i), an entry permit survives the death of the holder.

9 * **Sec. 2.** AS 16.43.170(b) is amended to read:

10 (b) Except as provided in (c), [AND] (e), and (i) of this section, the holder of
11 an entry permit may transfer the permit to another person or to the commission upon
12 60 days notice of intent to transfer under regulations adopted by the commission. No
13 sooner than 60 days nor later than 12 months from the date of notice to the
14 commission, the holder of an entry permit may transfer the permit. If the proposed

1 transferee, other than the commission, can demonstrate the present ability to participate
 2 actively in the fishery and the transfer does not violate any provision of this chapter
 3 or regulations adopted under it, and if a certificate for the permit under
 4 AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the
 5 commission shall approve the transfer and reissue the entry permit to the transferee
 6 provided that neither party is prohibited by law from participating in the transfer.

7 * **Sec. 3.** AS 16.43.170 is amended by adding a new subsection to read:

8 (i) The holder of an entry permit that is subject to regulations adopted under
 9 AS 16.43.225(b)(2) may transfer the permit only to the commission.

10 * **Sec. 4.** AS 16.43.225(a) is repealed and reenacted to read:

11 (a) Subject to (b) of this section, the commission may establish a moratorium
 12 on entry of new participants or vessels, or both, into a fishery when the commission
 13 finds that the purposes of this chapter under AS 16.43.010(a) would be served.

14 * **Sec. 5.** AS 16.43.225(b) is repealed and reenacted to read:

15 (b) The commission may establish a moratorium on

16 (1) entry of new participants or vessels, or both, into a fishery as
 17 described in (a) of this section in order to

18 (A) allow time for the commission, in consultation with the
 19 Department of Fish and Game and the Board of Fisheries, to investigate and
 20 evaluate management alternatives, including establishment of a maximum
 21 number of entry permits under AS 16.43.240;

22 (B) allow the Department of Fish and Game and the Board of
 23 Fisheries to open a fishery or potential fishery that would otherwise remain
 24 closed for protection against overharvest resulting from open access into the
 25 fishery; or

26 (C) develop regulatory or legislative proposals to address needs
 27 of the fishery that cannot be met under existing statutes or regulations; and

28 (2) entry of new participants into a fishery if concurrently with the
 29 adoption of regulations establishing the moratorium the commission adopts regulations

30 (A) prohibiting the transfer of any entry permit that may be
 31 issued for the fishery at any time following the establishment of the

1 moratorium; and

2 (B) allowing the holder of an entry permit for the fishery to
3 transfer the entry permit only to the commission for reissuance under
4 procedures established by the commission.

5 * **Sec. 6.** AS 16.43.225(c) is amended to read:

6 (c) The commission may establish a moratorium under this section for a
7 continuous period of up to four years. **A moratorium established under this section**
8 **may be extended for no more than two additional years if necessary to serve a**
9 **purpose under (b)(1) of this section. After a moratorium has expired, the [A]**
10 fishery [THAT HAS BEEN SUBJECT TO A MORATORIUM UNDER THIS
11 SECTION] may not be subjected to a subsequent moratorium under this section unless
12 five years have elapsed [SINCE THE PREVIOUS MORATORIUM EXPIRED].

13 * **Sec. 7.** AS 16.43.225(d) is amended to read:

14 (d) While a moratorium is in effect, the commission shall **investigate and**
15 **evaluate management alternatives, including establishment of** [CONDUCT
16 INVESTIGATIONS TO DETERMINE WHETHER] a maximum number of entry
17 permits [SHOULD BE ESTABLISHED] under AS 16.43.240, by

- 18 (1) conducting research into conditions in the fishery;
19 (2) consulting with the Department of Fish and Game and the Board
20 of Fisheries; and
21 (3) consulting with participants in the fishery **and other members of**
22 **the public.**

23 * **Sec. 8.** AS 16.43.225(e) is amended to read:

24 (e) The commission shall establish by regulation the qualifications for
25 applicants for an interim-use permit, **annual vessel permit, or both** for a fishery
26 subject to a moratorium under this section. **When applicable, the [THE]**
27 qualifications must include the minimum requirements for past or present participation
28 and harvest in the fishery **as of the qualification date described in AS 16.43.260(f).**
29 **When establishing a moratorium for a new fishery or for a closed fishery, the**
30 **commission may use other reasonable standards to determine qualifications**
31 **consistent with this section, which may include past participation in similar or**

1 **related fisheries**. The commission may not issue an interim-use permit for a fishery
 2 subject to a moratorium under this section unless the applicant **satisfies** [CAN
 3 SATISFY] the qualifications established under this subsection and **establishes**
 4 [ESTABLISH] the present ability and intent to participate actively in the fishery.

5 * **Sec. 9.** AS 16.43.225 is amended by adding new subsections to read:

6 (f) A permit issued under this section is a use privilege that may be modified
 7 or revoked by the legislature without compensation.

8 (g) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
 9 release to a vessel owner information on the vessel's history of harvests in a fishery
 10 or other relevant information that is necessary to apply for a vessel permit.

11 (h) The commission may charge a fee for the privileges conveyed by a vessel
 12 permit issued in this section. The fee must reasonably reflect the rate of economic
 13 return for the relevant fishery, except that, by regulation, the commission may provide
 14 for a reduced fee for an applicant who has a family income falling within the federal
 15 poverty guidelines as adjusted by the commission to reflect appropriate cost-of-living
 16 differentials.

17 (i) Unless provided otherwise by a state statute or regulation, neither a permit
 18 issued under this section nor the use of the permit or a permitted vessel in the fishery
 19 subject to a moratorium under this section may be used to establish eligibility for a
 20 permit in that fishery after the expiration of the moratorium.

21 (j) The commission may adopt regulations providing for the transfer of a
 22 vessel permit to another vessel if the original permitted vessel is sunk, destroyed, or
 23 damaged to the extent that the vessel is inoperable for the fishery for which the permit
 24 is issued.

25 (k) As permitted by federal law and consistent with this chapter, the
 26 commission may establish a moratorium in offshore fisheries adjacent to territorial
 27 waters of the state.

28 * **Sec. 10.** AS 16.43.260(f) is amended to read:

29 (f) When the commission establishes the maximum number of entry permits
 30 under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225,
 31 an applicant for an entry permit for the fishery shall be assigned to a priority

1 classification based solely upon the applicant's qualifications as of the [EFFECTIVE]
2 date of the commission's order providing for public notice of the proposed
3 regulatory action to establish [STATUTE OR REGULATION ESTABLISHING] the
4 moratorium.

5 * **Sec. 11.** AS 16.43.911 is amended by adding a new subsection to read:

6 (f) In this section, "vessel permit" includes a vessel permit issued under
7 AS 16.43.225, 16.43.901, or 16.43.906.

8 * **Sec. 12.** Section 6, ch. 97, SLA 1997, is amended to read:

9 Sec. 6. AS 16.43.906, added by sec. 3 of this Act, and AS 16.43.911(c)
10 [AS 16.43.911] are repealed July 1, 2001.

11 * **Sec. 13.** AS 16.05.050(19) and 16.05.251(g) are repealed.

12 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).