

**HOUSE BILL NO. 285**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE IVAN

Introduced: 5/10/97

Referred: Resources, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to suspension or revocation of commercial fishing permits and  
2 privileges."

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

4 \* **Section 1.** AS 16.43 is amended by adding new sections to read:

5 **Article 6A. Point System for Commercial Fishing Violations.**

6 **Sec. 16.43.850. Point system.** (a) For the purpose of identifying frequent  
7 violators of commercial fishing laws, the commission shall adopt regulations  
8 establishing a uniform system for the suspension or revocation of a commercial fishing  
9 permit by assigning demerit points for convictions for violations of commercial fishing  
10 laws that are required to be reported to the commission under AS 16.43.875. Subject  
11 to (b) of this section, the commission shall establish by regulation the number of  
12 demerit points to be assessed for each violation or class of violation of commercial  
13 fishing laws. The number of points assessed against a commercial fishing permit for  
14 a conviction of a violation of commercial fishing laws under AS 16.05.722 must be

1 one-half of the points assessed for a conviction of a violation of commercial fishing  
2 laws under AS 16.05.723.

3 (b) The commission shall assess demerit points against a commercial fishing  
4 permit for a conviction of a violation of commercial fishing laws under AS 16.05.723  
5 for the following violations in accordance with this schedule:

- |    |  |           |
|----|--|-----------|
| 6  | (1) fishing in closed waters                           | 6 points  |
| 7  | (2) fishing during closed season or period             | 6 points  |
| 8  | (3) fishing with more than the legal amount of gear    | 6 points  |
| 9  | (4) fishing with gear not allowed in fishery           | 6 points  |
| 10 | (5) interfering with commercial fishing gear           | 4 points  |
| 11 | (6) fishing with more than the legal amount of gear    | 4 points  |
| 12 | on vessel  |           |
| 13 | (7) improper operation of fishing gear                 | 6 points  |
| 14 | (8) employing an unlicensed crewmember                 | 2 points  |
| 15 | (9) fishing without required documents                 | 2 points  |
| 16 | (10) fishing with improperly marked or unmarked vessel | 2 points  |
| 17 | (11) fishing with improperly marked or unmarked gear   | 2 points  |
| 18 | (12) permit holder not present when required           | 6 points  |
| 19 | (13) fishing with overlength vessel                    | 6 points. |

20 (c) The commission shall assess points against a permit holder's entry permit  
21 or interim-use permit for the fishery in which the violation of commercial fishing laws  
22 occurred.

23 (d) The regulations adopted under (a) of this section must include a designated  
24 level of point accumulation that identifies permit holders who are frequent violators  
25 of commercial fishing laws. In formulating the point system authorized by this  
26 section, the commission shall provide for

27 (1) suspension of an entry permit or interim-use permit for a fishery  
28 if the permit held by a permit holder accumulates

29 (A) 12 or more points during any consecutive 48-month period  
30 as a result of convictions of violations of commercial fishing laws in the  
31 fishery for which the permit was issued; or

1 (B) 16 or more points during any consecutive 60-month period  
2 as a result of convictions of violations of commercial fishing laws in the  
3 fishery for which the permit was issued;

4 (2) revocation of an entry permit or interim-use permit for a fishery if  
5 the permit held by the permit holder accumulates 18 or more points during any  
6 consecutive 72-month period as a result of convictions of violations of commercial  
7 fishing laws in the fishery for which the permit was issued.

8 **Sec. 16.43.855. Assessment of points.** (a) Notice of each assessment of  
9 points may be given, but notice shall be given when the point accumulation reaches  
10 six points. Notice shall also be given to the permit holder before the expiration of a  
11 suspension of a permit under AS 16.43.850(d)(1) that subsequent violations of  
12 commercial fishing laws in the fishery may result in further suspensions or in  
13 revocation of the permit. The notice may be given by first class mail.

14 (b) The time periods provided for in AS 16.43.850 for the accumulation of  
15 points shall be based on the date of violation, but points may not be assessed until  
16 after conviction, either on a plea of guilty, nolo contendere, or a forfeiture of bail or  
17 collateral, or as a result of a trial, for violation of a commercial fishing law.

18 (c) The assessment of points against a permit holder's commercial fishing  
19 permit by the commission under this section is in addition to, and not in substitution  
20 for, other provisions of this title and is not a substitute for any penalty imposed by a  
21 court.

22 (d) If access to an interim-use permit fishery is restricted through the  
23 establishment of a limited entry system for the fishery by the commission under this  
24 chapter, the points accumulated against a permit holder's interim-use permit must be  
25 transferred to the permit holder's entry permit for the limited entry fishery for purposes  
26 of assessing points under this section.

27 (e) Points assessed or assessable against a commercial fishing permit at the  
28 time of a permanent or emergency transfer of the permit are transferred with the  
29 permit. Points transferred with a permit must be taken into consideration in  
30 accordance with the provisions of AS 16.43.850 - 16.43.895 if points are assessed  
31 against the permit following the completion of the transfer.

1           **Sec. 16.43.860. Reduction of points.** Two points shall be deducted from the  
2 total points assessed against a permit holder's commercial fishing permit if the permit  
3 holder has not been convicted of a violation of commercial fishing laws that occurred  
4 in the fishery for which the commercial fishing permit was issued during the 12-month  
5 period after the date of the last violation in the fishery for which the permit holder had  
6 points assessed.

7           **Sec. 16.43.865. Suspension and revocation.** (a) The commission shall  
8 suspend or revoke the entry permit or interim-use permit for a fishery of a permit  
9 holder who has been identified through the person's point accumulation as a frequent  
10 violator of commercial fishing laws in that fishery under AS 16.43.850. A suspension  
11 of an entry permit or interim-use permit is for a period of one year. Upon revocation  
12 of an entry permit or interim-use permit by the commission, the permit is void and  
13 must be immediately surrendered to the commission.

14           (b) A permit holder whose entry permit or interim-use permit for a fishery is  
15 suspended or revoked may not obtain an entry permit or interim-use permit for that  
16 fishery for one year from the effective date of the suspension or revocation of the  
17 permit. During the period for which the permit holder's privilege to obtain an entry  
18 permit or interim-use permit for a fishery is suspended under this section, the  
19 commission may not issue a permit card to the permit holder for that fishery.

20           (c) A permit holder whose privilege of obtaining an entry permit or interim-use  
21 permit for a fishery is suspended under (b) of this section may engage in the fishery  
22 only under a crewmember license.

23           (d) An entry permit may not be permanently transferred (1) during the period  
24 for which the entry permit is suspended under this section; or (2) if proceedings in  
25 which the entry permit may be suspended or revoked under this section are pending  
26 against the entry permit.

27           (e) An entry permit revoked by the commission under AS 16.43.850 -  
28 16.43.895 that is pledged as security for a loan under AS 16.10.333 or AS 44.81.231  
29 shall be reassigned or sold as provided in AS 16.10.337 or AS 44.81.250.

30           (f) If, during the period for which a permit holder's interim-use permit for a  
31 fishery is suspended, the commission establishes a limited entry system for the fishery,

1 the permit holder shall be eligible to obtain an entry permit for that fishery to the  
 2 extent that the permit holder qualifies for the entry permit under regulations adopted  
 3 by the commission. If the permit holder qualifies for an entry permit for the fishery,  
 4 the commission shall withhold issuance of the entry permit until the period of the  
 5 suspension imposed under (b) of this section has expired.

6 **Sec. 16.43.870. Notice and appeal.** Subject to AS 16.43.120(a), the  
 7 commission shall provide notice of, and respondents may appeal from, determinations  
 8 of the commission under regulations adopted by the commission under AS 16.43.110.

9 **Sec. 16.43.875. Required notice to commission.** (a) The Department of  
 10 Public Safety shall notify the commission of each alleged violation of a commercial  
 11 fishing law by a permit holder.

12 (b) A court that convicts a person of a violation of commercial fishing laws  
 13 under this title or under a regulation adopted under this title shall forward a record of  
 14 the conviction to the commission.

15 (c) A conviction on a plea of nolo contendere accepted by the court or a  
 16 forfeiture of bail or collateral deposited to secure a defendant's appearance in court  
 17 that has not been vacated is a conviction for purposes of AS 16.43.850 - 16.43.895.

18 (d) A court that suspends or revokes an entry permit or interim-use permit  
 19 shall require the surrender of the permit and shall immediately forward the permit to  
 20 the commission with the record of conviction and notification of the effective date of  
 21 the suspension or revocation.

22 **Sec. 16.43.895. Definitions for AS 16.43.850 - 16.43.895.** In AS 16.43.850 -  
 23 16.43.895,

24 (1) "commercial fishing law" means a statute or regulation that  
 25 regulates the conduct of a person engaged in commercial fishing activities by  
 26 establishing requirements relating to fishing licenses and permits; catch records and  
 27 reports; size, nature, or use of fishing vessels, sites, and gear; time, place, or manner  
 28 of taking fishery resources; possession, transportation, sale, barter, or waste of fishery  
 29 resources; or other aspects of commercial fishing;

30 (2) "commercial fishing permit" means an entry permit or an interim-  
 31 use permit issued under this chapter;

1                   (3) "permit holder" includes the holder of a permit as the result of an  
2 emergency transfer, an applicant for a commercial fishing permit if the applicant's  
3 commercial fishing permit was revoked or suspended under AS 16.43.850 - 16.43.895,  
4 and a person whose privilege of obtaining a commercial fishing permit for a fishery  
5 is suspended under AS 16.43.850 - 16.43.895.

6    \* **Sec. 2. APPLICABILITY.** This Act applies to violations of commercial fishing laws that  
7 occur on or after the effective date of this Act.