

SENATE BILL NO. 145

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR LEMAN

Introduced: 3/19/97

Referred: Resources

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6 * **Section 1.** AS 16.43.225(a) is repealed and reenacted to read:

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

10 * **Sec. 2.** AS 16.43.225(b) is repealed and reenacted to read:

11 (b) The commission may establish a moratorium on entry into a fishery as
12 described in (a) of this section in order to

13 (1) allow time for the commission, in consultation with the Department
14 of Fish and Game and the Board of Fisheries, to investigate and evaluate management

1 alternatives, including establishment of a maximum number of entry permits under
2 AS 16.43.240;

3 (2) allow the Department of Fish and Game and the Board of Fisheries
4 to open a fishery or potential fishery that would otherwise remain closed for protection
5 against overharvest resulting from open access into the fishery; or

6 (3) develop regulatory or legislative proposals to address needs of the
7 fishery that cannot be met under existing statutes or regulations.

8 * **Sec. 3.** AS 16.43.225(c) is amended to read:

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

16 * **Sec. 4.** AS 16.43.225(d) is amended to read:

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

21 (1) conducting research into conditions in the fishery;

22 (2) consulting with the Department of Fish and Game and the Board
23 of Fisheries; and

24 (3) consulting with participants in the fishery **and other members of**
25 **the public.**

26 * **Sec. 5.** AS 16.43.225(e) is amended to read:

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

1 When establishing a moratorium for a new fishery or for a closed fishery, the
 2 commission may use other reasonable standards to determine qualifications
 3 consistent with this section, which may include past participation in similar or
 4 related fisheries. The commission may not issue an interim-use permit for a fishery
 5 subject to a moratorium under this section unless the applicant satisfies [CAN
 6 SATISFY] the qualifications established under this subsection and establishes
 7 [ESTABLISH] the present ability and intent to participate actively in the fishery.

8 * **Sec. 6.** AS 16.43.225 is amended by adding new subsections to read:

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

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

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

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

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

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

30 * **Sec. 7.** AS 16.43.260(f) is amended to read:

31 (f) When the commission establishes the maximum number of entry permits

1 under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225,
2 an applicant for an entry permit for the fishery shall be assigned to a priority
3 classification based solely upon the applicant's qualifications as of the [EFFECTIVE]
4 date of the commission's order providing for public notice of the proposed
5 regulatory action to establish [STATUTE OR REGULATION ESTABLISHING] the
6 moratorium.

7 * **Sec. 8.** AS 16.43.911 is amended by adding a new subsection to read:

8 (f) In this section, "vessel permit" includes a vessel permit issued under
9 AS 16.43.225 or 16.43.901.

10 * **Sec. 9.** Section 5, ch. 126, SLA 1996, is amended to read:

11 Sec. 5. AS 16.43.901 and 16.43.911(c) [16.43.911], added by sec. 3 of this
12 Act, are repealed July 1, 2000.

13 * **Sec. 10.** AS 16.05.050(19) and 16.05.251(g) are repealed.

14 * **Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).