

**HOUSE BILL NO. 104**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HUDSON, Austerman

Introduced: 2/19/99

Referred: House Special Committee on Fisheries, 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6 \* **Section 1.** AS 16.43.225(a) is repealed and reenacted to read: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) The commission may establish a moratorium on entry of new participants  
8 or vessels, or both, into a fishery, if the commission finds that a moratorium is  
9 necessary

10 (1) to promote the conservation and sustained yield management of the  
11 state's fishery resource and the economic health and stability of commercial fishing in  
12 the state; and

13 (2) for one or more of the following purposes:

14 (A) to allow time for the commission, in consultation with the

1 Department of Fish and Game and the Board of Fisheries, as appropriate, to  
 2 investigate and evaluate management alternatives, including establishment of  
 3 a maximum number of entry permits under AS 16.43.240;

4 (B) to allow the commission time to develop regulatory or  
 5 legislative proposals to address needs of the fishery that cannot be met under  
 6 existing statutes or regulations;

7 (C) to allow the Department of Fish and Game and the Board  
 8 of Fisheries to open a fishery or potential fishery that would otherwise remain  
 9 closed for protection against over harvest resulting from open access into the  
 10 fishery.

11 \* **Sec. 2.** AS 16.43.225(c) is amended to read:

12 (c) The commission may establish a moratorium under this section for a  
 13 continuous period of up to four years. A **moratorium established under this section**  
 14 **may be extended for no more than two additional years if necessary to serve a**  
 15 **purpose described under (a) of this section. After a moratorium on entry of new**  
 16 **participants or vessels into a fishery has expired, the** fishery [THAT HAS BEEN  
 17 SUBJECT TO A MORATORIUM UNDER THIS SECTION] may not be subjected  
 18 to a subsequent moratorium **on entry of either new participants or new vessels into**  
 19 **the fishery** [UNDER THIS SECTION] unless five years have elapsed [SINCE THE  
 20 PREVIOUS MORATORIUM EXPIRED].

21 \* **Sec. 3.** AS 16.43.225(d) is amended to read:

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

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

27 (2) consulting with the Department of Fish and Game and the Board  
 28 of Fisheries; and

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

31 \* **Sec. 4.** AS 16.43.225(e) is repealed and reenacted to read:

1 (e) The commission shall establish, by regulation, the eligibility criteria for  
 2 applicants for an interim-use permit, interim-use vessel permit, or both, for a fishery  
 3 subject to a moratorium under this section. The eligibility criteria for an interim-use  
 4 permit for a fishery that is subject to a moratorium for a purpose described under  
 5 (a)(2)(A) or (B) of this section must address the minimum requirements for past or  
 6 present participation and harvest in the fishery as of a qualification date described in  
 7 AS 16.43.260(f)(1) or (2). When establishing the eligibility criteria for an interim-use  
 8 permit for a fishery that is subject to a moratorium solely for the purpose described  
 9 under (a)(2)(C) of this section, the commission may establish the criteria based upon

10 (1) the minimum requirements for past or present participation and  
 11 harvest

12 (A) in the fishery as of the qualification date described in  
 13 AS 16.43.260(f)(1) or (2); or

14 (B) in a similar or related fishery if the fishery for which the  
 15 interim-use permit is being considered has either remained closed in years  
 16 immediately before the qualification date or has never been open; or

17 (2) a combination of the minimum requirements for past or present  
 18 participation in the fisheries described in (1)(A) and (B) of this subsection.

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

20 (f) The commission may not issue an interim-use permit or an interim-use  
 21 vessel permit for a fishery subject to a moratorium under this section unless the  
 22 applicant satisfies the qualifications established under (e) of this section and establishes  
 23 the present ability and intent to participate actively in the fishery.

24 (g) A permit issued under this section is a use privilege that may be modified  
 25 or revoked by law without compensation.

26 (h) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
 27 release to a vessel owner information on the vessel's history of harvests in a fishery  
 28 or other relevant information that is necessary to apply for an interim-use vessel  
 29 permit.

30 (i) The commission may charge a fee for the privileges conveyed by an  
 31 interim-use vessel permit issued under this section. The fee must reasonably reflect

1 the rate of economic return for the relevant fishery, except that, by regulation, the  
 2 commission may provide for a reduced fee for an applicant who has a family income  
 3 falling within the federal poverty guidelines as adjusted by the commission to reflect  
 4 appropriate cost-of-living differentials.

5 (j) Unless provided otherwise by a state statute or regulation, neither a permit  
 6 issued under this section nor the use of the permit or a permitted vessel in the fishery  
 7 subject to a moratorium under this section may be used to establish eligibility for a  
 8 permit in that fishery after the expiration of the moratorium.

9 (k) The commission may adopt regulations providing for the transfer of an  
 10 interim-use vessel permit to another vessel if the original permitted vessel is sunk,  
 11 destroyed, or damaged to the extent that the vessel is inoperable for the fishery for  
 12 which the permit is issued.

13 (l) As permitted by federal law and consistent with this chapter, the  
 14 commission may establish a moratorium on entry of new participants or vessels, or  
 15 both, into offshore fisheries adjacent to territorial waters of the state.

16 (m) The commission shall annually inform the Board of Fisheries and the  
 17 Department of Fish and Game of

18 (1) petitions received by the commission that request the commission  
 19 to adopt regulations establishing a moratorium on entrants into a fishery and the action  
 20 taken by the commission in response to each petition;

21 (2) the fisheries that are currently subject to a moratorium on new  
 22 entrants and the status of investigations to determine whether a maximum number of  
 23 entry permits should be established for the fishery; and

24 (3) the fisheries that are currently subject to a moratorium on new  
 25 entrants for which the commission has determined that the level of participation in the  
 26 fishery requires that entry into the fishery be limited in order to achieve the purposes  
 27 of this chapter.

28 \* **Sec. 6.** 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 **the commission shall determine which one of the following three dates listed in (1)**

1       **- (3) of this subsection shall be used to determine the priority classification among**  
 2       **applicants. Each** [AN] applicant for an entry permit for the fishery shall be assigned  
 3       to a priority classification based **on** [SOLELY UPON] the applicant's qualifications as  
 4       of

5                       **(1) January 1 of the year during which the commission established**  
 6       **the moratorium;**

7                       **(2) the date of the commission's order providing for public notice**  
 8       **of the proposed regulatory action to establish the moratorium; or**

9                       **(3) the date of the commission's order providing for public notice**  
 10       **of the proposed regulatory action to establish the maximum number** [THE  
 11       EFFECTIVE DATE OF THE STATUTE OR REGULATION ESTABLISHING THE  
 12       MORATORIUM].

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

14                       (f) In this section, "vessel permit" means

15                               (1) a vessel permit issued under AS 16.43.901 or 16.43.906; and

16                               (2) an interim-use vessel permit issued under AS 16.43.225.

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

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

20   \* **Sec. 9.** AS 16.05.050(a)(19), 16.05.251(g); and AS 16.43.225(b) are repealed.

21   \* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).