



LAWS OF ALASKA

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Source
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Chapter No.
135

AN ACT

Relating to commercial fishing limited entry permit buy-back programs, to a permit buy-back assessment, and to voluntary relinquishment of commercial fishing permits; and defining "optimum number."

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

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Approved by the Governor: July 5, 2002
Actual Effective Date: October 3, 2002

AN ACT

1 Relating to commercial fishing limited entry permit buy-back programs, to a permit buy-back
2 assessment, and to voluntary relinquishment of commercial fishing permits; and defining
3 "optimum number."

4

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

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

8 * **Sec. 2.** AS 16.43.150 is amended by adding a new subsection to read:

9 (i) The holder of a transferable or nontransferable entry permit or of an
10 interim-use permit may voluntarily relinquish the permit to the commission.

11 * **Sec. 3.** AS 16.43.170(b) is amended to read:

12 (b) Except as provided in [(c) AND] (e) of this section, the holder of an entry
13 permit may transfer the permit to another person or to the commission upon 60 days
14 notice of intent to transfer under regulations adopted by the commission. No sooner

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1 than 60 days nor later than 12 months from the date of notice to the commission, the
2 holder of an entry permit may transfer the permit. If the proposed transferee, other
3 than the commission, can demonstrate the present ability to participate actively in the
4 fishery and the transfer does not violate any provision of this chapter or regulations
5 adopted under this chapter [IT], and if a certificate for the permit under
6 AS 16.10.333(b)(1) - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the
7 commission shall approve the transfer and reissue the entry permit to the transferee
8 provided that neither party is prohibited by law from participating in the transfer.

9 * **Sec. 4.** AS 16.43.170(c) is amended to read:

10 (c) **The** [BEFORE THE DETERMINATION, UNDER AS 16.43.290 AND
11 16.43.300, OF THE OPTIMUM NUMBER OF ENTRY PERMITS FOR A
12 FISHERY, THE] holder of an entry permit who qualified for that entry permit in a
13 priority classification designated under AS 16.43.250(c) may not transfer that permit
14 [UNLESS THE COMMISSION ESTIMATES THAT THE OPTIMUM NUMBER
15 FOR THAT FISHERY WILL BE EQUAL TO OR GREATER THAN THE
16 NUMBER OF OUTSTANDING ENTRY PERMITS AND INTERIM-USE
17 PERMITS].

18 * **Sec. 5.** AS 16.43.310 is repealed and reenacted to read:

19 **Sec. 16.43.310. Establishment of buy-back funds and permit buy-back**
20 **assessments.** (a) When the optimum number of entry permits is less than the number
21 of entry permits outstanding in a fishery, the commission may establish a buy-back
22 program, a buy-back plan, and a buy-back fund for that fishery.

23 (b) The commission may establish by regulation a permit buy-back assessment
24 for each fishery for which the commission has established a buy-back fund under (a)
25 of this section. The amount of the assessment may not exceed seven percent of the
26 value, as defined in AS 43.75.290, of fish that a permit holder in the fishery subject to
27 the assessment removes from the state or transfers to a buyer in the state. The
28 Department of Revenue shall collect an assessment established under this subsection.

29 (c) The commission shall expend money appropriated to a buy-back fund for
30 the purpose of reducing the number of entry permits in the fishery to the optimum
31 number, at a rate to be established by the commission. The legislature may

1 appropriate interest accrued on the money in a buy-back fund to that fund. Except as
2 provided in AS 16.43.320, money appropriated to a buy-back fund does not lapse.

3 * Sec. 6. AS 16.43.320 is repealed and reenacted to read:

4 **Sec. 16.43.320. Administration of the buy-back program.** The commission
5 shall adopt regulations providing for the purchase of transferable entry permits with
6 money in the buy-back fund for each fishery. The buy-back program for a fishery
7 shall terminate when the number of entry permits for the fishery is reduced to the
8 optimum. The unexpended balance of appropriations made to a buy-back fund for a
9 fishery shall lapse back into the fund from which the money was appropriated at the
10 end of the fiscal year in which the buy-back program is terminated.

11 * Sec. 7. AS 16.43.990 is amended by adding a new paragraph to read:

12 (10) "optimum number" includes an optimum range of numbers.

13 * Sec. 8. AS 37.05.146(b)(4)(AA) is amended to read:

14 (AA) dive fishery management assessment receipts
15 (AS 43.76.150) **and permit buy-back assessment receipts (AS 43.76.220);**

16 * Sec. 9. AS 43.76 is amended by adding new sections to read:

17 **Article 4. Permit Buy-Back Assessment.**

18 **Sec. 43.76.220. Permit buy-back assessment.** A person holding a limited
19 entry permit or interim-use permit under AS 16.43 for a fishery subject to a permit
20 buy-back assessment established by the Alaska Commercial Fisheries Entry
21 Commission under AS 16.43.310 shall pay the permit buy-back assessment at the rate
22 established by the commission on the value, as defined in AS 43.75.290, of fish that
23 the person removes from the state or transfers to a buyer in the state under the
24 authority conferred by the limited entry permit or interim-use permit. The buyer shall
25 collect the permit buy-back assessment at the time the fish is acquired by the buyer.

26 **Sec. 43.76.230. Collection of assessment.** (a) A buyer who acquires fish that
27 are subject to a permit buy-back assessment imposed by AS 43.76.220 shall collect the
28 permit buy-back assessment at the time of purchase and shall remit the total permit
29 buy-back assessment collected during each month to the department by the last day of
30 the next month.

31 (b) A buyer who collects a permit buy-back assessment shall

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1 (1) maintain records of the value of fish purchased in the state that
2 were subject to a permit buy-back assessment;

3 (2) report the total value, as defined in AS 43.75.290, of the fish
4 acquired during the preceding year that were subject to a permit buy-back assessment
5 to the department by March 1 of each year.

6 (c) The owner of fish removed from the state is liable for payment of a permit
7 buy-back assessment imposed by AS 43.76.220 if, at the time the fish is removed from
8 the state, the assessment payable on the fish has not been collected by a buyer. If the
9 owner of the fish is liable for payment of the permit buy-back assessment under this
10 subsection, the owner shall comply with the requirements under (a) and (b) of this
11 section to remit the assessment to the department, to maintain records, and to report to
12 the department.

13 (d) A permit buy-back assessment collected under this section shall be
14 deposited in the state treasury. The department shall separately account for the
15 amounts collected and interest accrued on the amounts collected for each permit buy-
16 back assessment imposed under AS 43.76.220. The legislature may appropriate
17 revenue generated by a permit buy-back assessment and interest accrued on the
18 assessment to the buy-back fund established for the fishery in which the assessment
19 was collected for the purpose of supporting the buy-back program for that fishery
20 under AS 16.43.310 and 16.43.320.

21 (e) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and
22 collection of a permit buy-back assessment levied under AS 43.76.220 - 43.76.240.

23 **Sec. 43.76.240. Definition.** In AS 43.76.220 - 43.76.240, "buyer" means a
24 person who acquires possession of fish from the person who caught the fish regardless
25 of whether there is an actual sale of the fish, but does not include a person engaged
26 solely in interstate transportation of goods for hire.

27 * **Sec. 10.** AS 16.43.170(c) is repealed.