

CS FOR HOUSE BILL NO. 286(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 2/13/02

Referred: Resources

Sponsor(s): REPRESENTATIVES SCALZI, Fate

A BILL

FOR AN ACT ENTITLED

1 **"An Act allowing a person to hold two commercial fishing entry permits for a salmon**
2 **fishery for the purpose of consolidating the fishing fleet for a salmon fishery; relating to**
3 **salmon fishery associations and to salmon fishery assessments; and providing for an**
4 **effective date."**

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

6 * **Section 1.** AS 16.40 is amended by adding a new section to read:

7 **Article 5. Salmon Fishery Associations.**

8 **Sec. 16.40.250. Salmon fishery associations.** The commissioner shall assist
9 in and encourage the formation of qualified salmon fishery associations for the
10 purpose of promoting the consolidation of the fishing fleet in a salmon fishery for
11 which the Alaska Commercial Fisheries Entry Commission has issued commercial
12 fishing entry permits under AS 16.43. A salmon fishery association is qualified if the
13 commissioner determines that the regional association

14 (1) is incorporated as a nonprofit corporation under AS 10.20;

1 (2) represents interim-use permit and entry permit holders who
2 participate in the salmon fishery for which the association is established; and

3 (3) has a board of directors that is representative of interim-use permit
4 and entry permit holders who fish in the salmon fishery.

5 * **Sec. 2.** AS 16.43.140(c) is amended to read:

6 (c) A person may hold more than one interim-use or entry permit issued or
7 transferred under this chapter only for the following purposes:

8 (1) fishing more than one type of gear;

9 (2) fishing in more than one administrative area;

10 (3) harvesting particular species for which separate interim-use or
11 entry permits are issued;

12 (4) if authorized by regulations of the commission, fishing an entire
13 unit of gear in a fishery in which the commission has issued entry permits for less than
14 a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold
15 more than two entry permits for a fishery; however, the person may not

16 (A) fish more than one unit of gear in the fishery; or

17 (B) acquire a second entry permit for the fishery after the
18 person has acquired an entry permit that authorizes the use of an entire unit of
19 gear in the fishery;

20 **(5) consolidation of the fishing fleet for a salmon fishery; however,**
21 **a person may hold not more than two entry permits for a salmon fishery under**
22 **this paragraph, but the person who holds two entry permits for a salmon fishery**
23 **may not engage in fishing under the second entry permit.**

24 * **Sec. 3.** AS 37.05.146(b)(4)(AA) is amended to read:

25 (AA) dive fishery management assessment receipts
26 (AS 43.76.150) **and salmon fishery assessment receipts (AS 43.76.220);**

27 * **Sec. 4.** AS 43.76 is amended by adding new sections to read:

28 **Article 4. Salmon Fishery Assessment.**

29 **Sec. 43.76.220. Salmon fishery assessment.** (a) A salmon fishery
30 assessment shall be levied on the value of the salmon sold in a salmon fishery. The
31 rate of the assessment, not to exceed five percent, shall be determined by an election

1 under AS 43.76.230.

2 (b) A salmon fishery assessment may only be levied or collected on salmon
3 sold in a fishery if

4 (1) there exists in the administrative area in which the fishery occurs
5 an association determined by the commissioner of fish and game to be a qualified
6 salmon fishery association under AS 16.40.250; and

7 (2) the rate of the salmon fishery assessment is determined by an
8 election under AS 43.76.230.

9 **Sec. 43.76.230. Election to approve, amend, or terminate salmon fishery**
10 **assessment.** (a) A qualified salmon fishery association may conduct an election
11 under this section after the commissioner of fish and game approves

12 (1) the notice to be published by the qualified salmon fishery
13 association; the notice must state that all salmon sold in the fishery are subject to the
14 salmon fishery assessment and the rate of the salmon fishery assessment to be
15 approved, amended, or terminated at the election;

16 (2) the ballot to be used in the election; and

17 (3) the registration and voting procedure for the approval, amendment,
18 or termination of the salmon fishery assessment.

19 (b) The salmon fishery assessment is levied under AS 43.76.220 in a fishery
20 on the effective date stated on the ballot if

21 (1) the assessment is approved by a two-thirds majority vote of the
22 eligible interim-use permit and entry permit holders in the fishery; and

23 (2) the election results are certified by the commissioner of fish and
24 game.

25 (c) In conducting an election under this section, a qualified salmon fishery
26 association shall adopt the following procedures:

27 (1) the qualified salmon fishery association for the fishery shall make
28 copies of the articles of incorporation and bylaws of the association available to all
29 interim-use permit and entry permit holders in the fishery;

30 (2) the qualified salmon fishery association for the fishery shall hold at
31 least one public meeting not less than 30 days before the date on which ballots must be

1 postmarked to be counted in the election to explain, as appropriate, the reason for
 2 approval or amendment of the proposed salmon fishery assessment, the reason for the
 3 proposed rate of the salmon fishery assessment, or the reason for termination of the
 4 salmon fishery assessment, and to explain the registration and voting procedure to be
 5 used in the election; the qualified salmon fishery association shall provide notice of
 6 the meeting by

7 (A) mailing the notice to each eligible interim-use permit and
 8 entry permit holder;

9 (B) posting the notice in at least three public places in the
 10 administrative area in which the fishery occurs; and

11 (C) publishing the notice in at least one newspaper of general
 12 circulation in the administrative area in which the fishery occurs at least once a
 13 week for two consecutive weeks before the meeting;

14 (3) the qualified salmon fishery association shall mail two ballots to
 15 each eligible interim-use permit and entry permit holder; the first ballot shall be
 16 mailed not more than 45 days before the date ballots must be postmarked to be
 17 counted in the election; the second ballot shall be mailed not less than 15 days before
 18 the date ballots must be postmarked to be counted in the election; the qualified salmon
 19 fishery association shall adopt procedures to ensure that only one ballot from each
 20 eligible interim-use permit and entry permit holder is counted in the election;

21 (4) the ballot must

22 (A) state that all salmon sold in the fishery are subject to the
 23 salmon fishery assessment;

24 (B) state the rate of the assessment to be levied under
 25 AS 43.76.220;

26 (C) ask the question whether the salmon fishery assessment
 27 addressed on the ballot shall be approved, amended, or terminated, as
 28 appropriate;

29 (D) indicate the fishery for which the salmon fishery
 30 assessment will be levied or terminated;

31 (E) provide an effective date for the approval, amendment, or

1 termination of the salmon fishery assessment; and

2 (F) indicate the date on which returned ballots must be
3 postmarked in order to be counted;

4 (5) the ballots shall be returned by mail and shall be counted by an
5 auditor selected by the qualified salmon fishery association and approved by the
6 commissioner of fish and game; the qualified salmon fishery association shall pay the
7 costs of counting the ballots.

8 (d) The commissioner of fish and game shall certify the results of an election
9 under this section if the commissioner determines that the requirements of (a) and (c)
10 of this section have been satisfied.

11 (e) A qualified salmon fishery association may employ or contract with
12 another person to administer an election under this section subject to the supervision
13 of the association.

14 (f) Except as otherwise provided under AS 43.76.240 and 43.76.250, an
15 election to amend the rate of a salmon fishery assessment or to terminate a salmon
16 fishery assessment shall be conducted under the same procedures established under
17 (a), (c), and (d) of this section for an election to approve a salmon fishery assessment.

18 (g) In this section, "eligible interim-use permit and entry permit holder" means
19 an individual who, 90 days before the date ballots must be postmarked to be counted
20 in an election under this section, is listed in the records of the Alaska Commercial
21 Fisheries Entry Commission as the legal holder of an interim-use permit for salmon
22 fishing gear or an entry permit for salmon fishing gear that authorizes the individual to
23 fish commercially in the salmon fishery for which the salmon fishery assessment is to
24 be approved, amended, or terminated.

25 **Sec. 43.76.240. Amendment of salmon fishery assessment.** (a) The rate of
26 the salmon fishery assessment levied on salmon under AS 43.76.220 may be amended
27 by the commissioner of revenue upon a two-thirds majority vote at an election held
28 under AS 43.76.230 among the eligible permit holders for the fishery in which the
29 salmon fishery assessment is levied.

30 (b) The commissioner of revenue shall amend the rate of a salmon fishery
31 assessment under (a) of this section following an election among the eligible permit

1 holders for the fishery if

2 (1) a petition that is signed by at least 25 percent of the interim-use
3 permit and entry permit holders in the fishery that is the subject of the petition is
4 presented to the commissioner of fish and game requesting amendment of the rate of
5 the salmon fishery assessment; the petition must state the proposed rate of the salmon
6 fishery assessment to be levied under AS 43.76.220; only a person who holds an
7 interim-use permit or entry permit for the fishery at the time of signing the petition
8 may validly sign the petition;

9 (2) an election is held in accordance with AS 43.76.230; the ballot
10 must ask the question whether the salmon fishery assessment on salmon sold in the
11 fishery shall be amended and must state the salmon fishery assessment to be levied
12 under AS 43.76.220 if the assessment is amended; the ballot must be worded so that a
13 "yes" vote is for amendment of the salmon fishery assessment and a "no" vote is for
14 continuation of the current salmon fishery assessment;

15 (3) a two-thirds majority of the eligible interim-use permit and entry
16 permit holders in the fishery casts a ballot for the amendment of the salmon fishery
17 assessment; in this paragraph, "eligible interim-use permit and entry permit holder"
18 has the meaning given in AS 43.76.230; and

19 (4) the qualified salmon fishery association provides notice of the
20 election in accordance with AS 43.76.230 within six months after receiving notice
21 from the commissioner of fish and game that a valid petition under (1) of this
22 subsection has been received.

23 **Sec. 43.76.250. Termination of salmon fishery assessment.** (a) The salmon
24 fishery assessment levied under AS 43.76.220 shall be terminated by the
25 commissioner of revenue upon a two-thirds majority vote at an election held under
26 AS 43.76.230 among the eligible permit holders for the fishery in which the salmon
27 fishery assessment is levied.

28 (b) The commissioner of revenue shall terminate a salmon fishery assessment
29 under (a) of this section following an election among the eligible permit holders for
30 the fishery if

31 (1) a petition that is signed by at least 25 percent of the interim-use

1 permit and entry permit holders in the fishery that is the subject of the petition is
 2 presented to the commissioner of fish and game requesting termination of the salmon
 3 fishery assessment; only a person who holds an interim-use permit or entry permit for
 4 the fishery at the time of signing the petition may validly sign the petition;

5 (2) an election is held in accordance with AS 43.76.230; the ballot
 6 must ask the question whether the salmon fishery assessment shall be terminated; the
 7 ballot must be worded so that a "yes" vote is for continuation of the salmon fishery
 8 assessment and a "no" vote is for termination of the salmon fishery assessment;

9 (3) a two-thirds majority of the eligible interim-use permit and entry
 10 permit holders in the fishery casts a ballot for the termination of the salmon fishery
 11 assessment; in this paragraph, "eligible interim-use permit and entry permit holder"
 12 has the meaning given in AS 43.76.230; and

13 (4) the qualified salmon fishery association provides notice of the
 14 election in accordance with AS 43.76.230 within six months after receiving notice
 15 from the commissioner of fish and game that a valid petition under (1) of this
 16 subsection has been received.

17 **Sec. 43.76.260. Collection of assessment.** (a) A buyer who acquires salmon
 18 that is subject to a salmon fishery assessment levied under AS 43.76.220 shall collect
 19 the salmon fishery assessment at the time of purchase and shall remit the total salmon
 20 fishery assessment collected during each calendar quarter to the department by the last
 21 day of the month following the end of the calendar quarter. In this subsection,
 22 "calendar quarter" means each of the three-month periods ending March 31, June 30,
 23 September 30, and December 31.

24 (b) A buyer who collects the salmon fishery assessment shall maintain records
 25 of the value of salmon that is subject to the assessment that is purchased in each
 26 salmon fishery of the state.

27 (c) The owner of salmon removed from the state is liable for payment of the
 28 salmon fishery assessment levied under AS 43.76.220 if, at the time the salmon is
 29 removed from the state, the assessment payable on the salmon has not been collected
 30 by a buyer. If the owner of the salmon is liable for payment of the salmon fishery
 31 assessment under this subsection, the owner shall comply with the requirements under

1 (a) and (b) of this section to remit the assessment to the department and to maintain
2 records.

3 (d) The salmon fishery assessment collected under this section shall be
4 deposited in the state treasury.

5 **Sec. 43.76.270. Funding for qualified salmon fishery associations.** (a) The
6 legislature may make appropriations of revenue collected under AS 43.76.260 to the
7 Department of Fish and Game for funding of the qualified salmon fishery association
8 for the fishery in which the assessment was collected. Funds received under this
9 section by a qualified salmon fishery association may be expended in accordance with
10 the annual operating plan developed under (b) of this section.

11 (b) The Department of Fish and Game shall assist a salmon fishery association
12 in developing an annual operating plan. The annual operating plan must describe the
13 activities for which the association intends to expend the funding received under this
14 section, including consolidation of the fishing fleet in the salmon fishery, financial
15 assistance to permit holders in the fishery to promote consolidation of the fishing fleet
16 for the fishery, and administrative activities of the association.

17 (c) A qualified salmon fishery association receiving funding under this section
18 shall submit an annual report to the Department of Fish and Game and to the members
19 of the association describing the activities of the association and how those activities
20 are consistent with the articles of incorporation and bylaws of the association.

21 (d) This section does not establish a dedication of a state tax or license.

22 (e) This section does not restrict or qualify the authority of the Department of
23 Fish and Game or the Board of Fisheries under AS 16.

24 **Sec. 43.76.280. Definitions.** In AS 43.76.220 - 43.76.280,

25 (1) "administrative area" means an area established by the Alaska
26 Commercial Fisheries Entry Commission under AS 16.43.200 for regulating and
27 controlling entry into salmon fisheries;

28 (2) "buyer" has the meaning given in AS 43.76.040;

29 (3) "fishery" has the meaning given in AS 16.43.990;

30 (4) "qualified salmon fishery association" means an association that is
31 qualified under AS 16.40.250;

1 (5) "salmon" means salmon sold under the authority of a limited entry
2 permit or interim-use permit issued under AS 16.43 for salmon;

3 (6) "sold" means the transfer of ownership of salmon from an interim-
4 use permit or entry permit holder to a buyer at the first point of sale;

5 (7) "value" has the meaning given in AS 43.75.290.

6 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).