

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 10, 2001

5:23 p.m.

MEMBERS PRESENT

Representative Beverly Masek, Co-Chair
Representative Drew Scalzi, Co-Chair
Representative Hugh Fate, Vice Chair
Representative Joe Green
Representative Mike Chenault
Representative Lesil McGuire
Representative Gary Stevens
Representative Beth Kerttula

MEMBERS ABSENT

Representative Mary Kapsner

COMMITTEE CALENDAR

HOUSE BILL NO. 206

"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

- MOVED CSHB 206(RES) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 206

SHORT TITLE:VESSEL LIMITED ENTRY FOR COMM. FISHERIES

SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
03/22/01	0691	(H)	READ THE FIRST TIME - REFERRALS
03/22/01	0691	(H)	FSH, RES
04/02/01		(H)	FSH AT 5:00 PM CAPITOL 124
04/02/01		(H)	Moved Out of Committee
04/02/01		(H)	MINUTE(FSH)
04/03/01	0826	(H)	FSH RPT 2DP 4NR
04/03/01	0827	(H)	DP: SCALZI, WILSON; NR: DYSON,

04/03/01	0827	(H)	COGHILL, KERTTULA, STEVENS
04/03/01	0827	(H)	FN1: ZERO(DFG)
04/04/01		(H)	RES AT 1:00 PM CAPITOL 124
04/04/01		(H)	Heard & Held MINUTE(RES)
04/09/01		(H)	RES AT 1:00 PM CAPITOL 124
04/09/01		(H)	Scheduled But Not Heard
04/10/01		(H)	RES AT 5:30 PM CAPITOL 124

WITNESS REGISTER

GERRY MERRIGAN

PO Box 232

Petersburg, Alaska 99833

POSITION STATEMENT: Testified in support of the proposed CS for HB 206.

PAUL SEATON

59395 Bruce Street

Homer, Alaska 99603

POSITION STATEMENT: Expressed concerns regarding HB 206.

JOHN WINTHER

(No address provided)

Petersburg, Alaska 99833

POSITION STATEMENT: Testified in support of the proposed CS for HB 206.

BRUCE SCHACTLER

PO Box 2254

Kodiak, Alaska 99614-2254

POSITION STATEMENT: Testified in opposition to HB 206.

OLIVER HOLM

PO Box 3865

Kodiak, Alaska 99615-3865

POSITION STATEMENT: Testified that the proposed CS for HB 206 is a major change that he would not favor.

CHRIS BERNS

PO Box 26

Kodiak, Alaska 99615-0026

POSITION STATEMENT: Testified regarding HB 206.

MAKO HAGGERTY

PO Box 2001

Homer, Alaska 99603

POSITION STATEMENT: Asked that the scallop fisheries be removed from HB 206.

MARY McDOWELL, Commissioner
Division of Commercial Fisheries Entry Commission (CFEC)
Alaska Department of Fish & Game (ADF&G)
8800 Glacier Highway, Suite 109
Juneau, Alaska 99801-8079

POSITION STATEMENT: Answered questions regarding the proposed CS for HB 206.

JEFFREY STEPHAN (ph), Manager
United Fishermen's Marketing Association (UFMA)
201 Marine Way
Kodiak, Alaska 99615

POSITION STATEMENT: Spoke on behalf of UFMA in support of the hair crab and scallop fisheries options in the proposed CS for HB 206; asked the committee to leave flexibility in the bill to include other fisheries.

ACTION NARRATIVE

TAPE 01-33, SIDE A
Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing Committee meeting, which had been recessed to a call of the chair on April 9, 2001, back to order at 5:23 p.m. Present at the call to order were Representatives Scalzi, Fate, Green, Stevens, and Kerttula. Representatives Masek, McGuire, and Chenault arrived as the meeting was in progress.

HB 206-VESSEL LIMITED ENTRY FOR COMM. FISHERIES

CO-CHAIR SCALZI announced that the committee would hear HOUSE BILL NO. 206, "An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

Number 0059

REPRESENTATIVE GREEN moved to adopt the proposed committee substitute (CS) for HB 206, Version L [22-LS0426\L, Utermohle, 4/9/01] for purposes of discussion. [No objections were stated.]

CO-CHAIR SCALZI told the committee HB 206 adds a tool for the limited entry system that allows the Commercial Fisheries Entry Commission (CFEC) to consider a program based on a limited license issued to the vessel, rather than to the owner-operator. If the initial recipient of the license sells it, the [new] owner of the license would have to be onboard, which was the intent of the original license limitation program. He asked Representative Stevens to explain the differences between Version L and the original bill.

Number 0199

REPRESENTATIVE STEVENS informed the committee that the original bill caused concern among fishermen because it was expansive and could have [applied to] many fisheries; that would have been more problematic, particularly in Kodiak. He stated his belief that limiting it to the Bering Sea Korean hair crab fishery and the weathervane scallop fishery makes everyone more comfortable, knowing they won't be surprised by changes to their industry. As time passes, other fisheries could come under this program if the legislature feels it is appropriate.

CO-CHAIR SCALZI pointed out the extensive information provided in the committee packet. He asked that those waiting to testify speak to Version L for purposes of expediency.

Number 0324

GERRY MERRIGAN testified via teleconference. Regarding the original bill, he said he'd thought it would be better to give limited entry as a tool and have the legislature indicate which fishery fit under each tool. Conversely, he stated his support for moving the proposed CS forward.

Number 0370

PAUL SEATON, testifying via teleconference, referred to the third paragraph of his written testimony [in the committee packet], saying his main objection to the bill has been the application to other fisheries. He said he understands from other testimony that scallops are "no longer a problem," and that there is a federal limited entry system. He added that no testimony had been heard in [the House Special Committee on Fisheries or the House Resources Standing Committee that the scallop fisheries need this [bill]]. Consequently, Mr. Seaton asked that the reference to scallops be removed.

MR. SEATON stated his belief that approximately four 48- to 70-foot vessels fish for scallops in Cook Inlet. He said, "Under the stacking provision, if this was in place, those permits could be bought by larger offshore vessels and change the complexion of the fishery." He went on to say he didn't think anything like that would happen regarding hair crab, because it isn't the same kind of situation. He suggested most problems with the bill could be alleviated by removing the language regarding scallop fisheries.

MR. SEATON stated his understanding that the hair crab open-entry system is for within five miles and applies to vessels under 60 feet; that will be maintained. Therefore, the vessel-owner provision isn't going to apply to state waters, but to federal waters, and "that's kind of the federal model."

MR. SEATON referred to page 6, [subsection] (c); mentioned ownership provisions and diverting the character of the fishery; and stated:

If a person is changing vessels - upgrading, selling vessels, getting new vessels - basically he's changed his operation. And I think that if you don't allow substitution of vessels, then you will assure this state that, at some point in time, this will become a person-based limited entry system like the rest of the limited entry systems - that if you leave it to (indisc.) to investigate ownership of corporations, it becomes much more problematic.

Number 0665

JOHN WINTHER, testifying via teleconference, told the committee he is a resident of Petersburg. [At this point there were technical difficulties with the teleconference. Mr. Winther finished his testimony later in the meeting.]

BRUCE SCHACTLER, testifying via teleconference, told the committee most of his comments would apply to both Version L and the original bill. He stated concern with the direction in which limited entry is being taken, saying the entire principle is being changed. This [concept] started four or five years ago and is "entering every fabric of every single fishery that we've got going here." He mentioned the American Fisheries Act, saying it was the beginning of this piecemeal plan. He continued:

I have to completely agree with Paul Seaton there, that I see absolutely no reason to have either one of these. He mentioned he didn't have a problem with the hair crab, but specifically, neither one of these things sunset for another couple of years, and one of them is 2004, I see. And I'd like to make sure whatever conversation continues at this rate goes extremely slow.

Now, the whole policy shift that CFEC is going with this, and that rationalization throughout all the other fisheries, is leaving all of us [who] have been stuck with limited entry as it is for 30 [years] in the dust.

Now limited entry wants to turn around and hand these out to corporations The owners of these will continue to sit in whatever surroundings they are sitting in, while their boats are out fishing. Meanwhile, the salmon fisheries, the herring fishery, and all the other ... limited entry fisheries are relegated to sit on our boats and fish 'til we're dead, literally.

I have no way that I can take my assets - as the scallop fishermen or the crab fishermen are hoping to do with this tool, ... as it was called - and ... put those assets out to younger people to ... use. We're stuck with our business. So, I'm going to be against this thing forever and ever and ever, amen, until you want to come up with a comprehensive plan to redo the entire limited entry system and bring the rest of us that have been sitting [since] 1970 along with it.

I believe that ... there's no reason for things to stay as they were 30 years ago, if we're going to rationalize every other fishery and come up with a new plan for every other fishery. Let's not do things piecemeal; let's start from scratch. ... I'd like to be able to take my kids to Disneyland and see those scallop fishermen ... with their kids, too, in the middle of August, instead of being on my boat. Thank you.

Number 1028

CO-CHAIR SCALZI responded that although Mr. Schactler was correct about the moratorium, to implement any kind of plan the CFEC will need time to formulate the plan and have public hearings and testimony; therefore, it is timely that the bill is being heard now.

Number 1075

OLIVER HOLM, testifying via teleconference, expressed concern about the shift in policy of allowing absentee or corporate ownership, and not having the permit holder on the vessel. He stated his belief that it was one thing the state did in its management of limited entry, versus [how Canada handled it]; he reads Pacific Fishing magazine, which addresses problems with corporate ownership, permits, and vessels, and he indicated [Alaska] is ahead in this regard. While it is convenient for the owner not to have to be on the vessel to fish, he thinks it is a serious change in the social policy in our fisheries, and more thought should be given to the issue.

MR. HOLM said the plans of the federal system are yet unknown. "We may want to have something in the future that's compatible with that, and we might not, depending on how it turns out," he told members. He said there are numerous problems involved in tracking concentration of ownership of the resource rights; as soon as corporate ownership is allowed, it becomes extremely difficult to track the real ownership and control.

MR. HOLM mentioned the American Fisheries Act [AFA] and the "tangled web of ownership" in AFA-qualified pollock vessels. He suggested Kodiak likely will end up with a limited entry program, through the state, for Tanner crab, which hopefully will become a significant fishery again. He added that he would be concerned how that would operate if [the bill] were passed. He concluded by saying there are many questions and he hasn't completely read [Version L]. He said [Version L] is a major change which he would not favor.

Number 1220

CHRIS BERNS, testifying via teleconference, told the committee he appreciated that the bill had been narrowed to scallop and hair crab [fisheries], rather than being generic. He referred to page 3 [lines 5-8] of Version L, which read:

The commission shall adopt criteria as appropriate,
for determining

(1) how restrictions on fishery resources, types of gear, and areas fished are established for individual vessel interim-use permits and vessel entry permits; and

MR. BERNS cited as an example the Kodiak Tanner [crab] fishery, in which he estimated 25 percent of owners are corporate owners and 75 percent are owner-operators. He asked the committee to clarify whether only the owner-operators would get the permits, based on a point system. He asked if there would be two classes of boats: a corporate boat that the owner could lease out, and "the rest of the guys [who] would have to be on their boat until they're 70 years old."

MR. BERNS voiced concern that the many "unknowns," "shalls," and "maybes" [in Version L] leave it wide open for future interpretation by another commissioner less trustworthy than Commissioner McDowell. Therefore, he would like to see the language be more concrete. He voiced his understanding that if [Version L] is adopted specific to hair crab and scallop [fisheries], there wouldn't be so much worry about other state-managed fisheries for now; however, he still would like to see it tightened further.

Number 1360

MR. WINTHER, reconnected to the teleconference, told the committee he has been involved in the hair crab fishery near the Pribilof Islands. Currently, it is the only fishery "not under an effort limitation by the council." It also is the only one without any catcher-processors involved, which means all the crabs [are brought] to shore [to be processed]. That is under the current moratorium, which expires in 2003.

MR. WINTHER mentioned the bill's passing in time for CFEC to implement a system before the moratorium expires. He also mentioned catcher-processors, and stated his belief that presently, regarding everybody who qualifies, it is "a catcher-vessel-only fishery." He mentioned vessels that have multiple skippers and the magnitude of the licenses generated.

MR. WINTHER suggested if eligible vessels were given a vessel license under the current limited entry laws, there would be three to five times the current [fishing] effort. He urged the committee to pass [the proposed CS], because it is a logical way to cap the effort in these fisheries.

Number 1485

MAKO HAGGERTY testified via teleconference. A commercial fisher for a total of twenty years and currently a water-taxi operator, Mr. Haggerty said he is always nervous when "we" redefine what a fisherman is, and [HB 206] makes him nervous for that reason. The scallop fishery in Homer is a small one that contributes quite a bit to the community. As an example, it is enjoyable to go once or twice a year to buy a bag of fresh scallops off the boat, and he would like to continue to do so.

MR. HAGGERTY said although he is not familiar with the hair crab fishery, he is familiar with the scallop fishery and would like to see scallop fisheries removed from the bill. In response to questions by Representative Kerttula, he said the scallop boats range in size from 50 to 70 feet. Bigger than those in the salmon fleet, they hold larger crews and bigger equipment, and they have to withstand "a little bit more weather."

Number 1637

MARY McDOWELL, Commissioner, Division of Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), offered some clarifications regarding HB 206. She said some of the fears expressed about the original bill are understandable because it is a departure from the current program. The fact that it is the fishermen who get the permits is a very important part of the state program, and one embraced by fishermen. She stated her belief that the constraints in the original bill were so tight that it is unlikely it would be used in any other fishery. She continued:

As far as limiting it to these two fisheries, ... I think it was ... Bill Kyle who spoke last time and mentioned that maybe that was taken care of, but ... that was a mistake, in that there is still a state-waters fishery that's under moratorium right now. It's a separate state moratorium, and when that moratorium ends, that will either be an open-access fishery or a closed fishery, or we have to come up with some kind of a limited entry program for it. So we do have to have a tool for that fishery.

There was a concern about the stacking provisions in the bill and how they would pertain to [scallop fisheries], and ... the fear that big high-seas

vessels might buy those permits under the stacking provision.

That isn't a concern as far as I can tell. The stacking provision says that the only time ... two permits could be on one vessel, for the state (indisc.) fishery, would be if ... the vessel obtaining it was an initial "issuee" to start with.

Additionally, these will have capacity constraints; these will be limited to certain sizes of vessels, so that the original permit would be issued for vessels in this size range [and] couldn't have a ... much larger vessel come in and buy it up to use on their vessel. The vessel that it would be used on would have to be the ... kind of vessel that was permitted under that ... particular permit.

There's a question about whether initial issuees would be treated differently - that if the initial issuee happened to be a person, would they be stuck having to be on the boat, whereas an initial issuee who's an entity wouldn't have that constraint. And that's not the case. Initial issuees would all be treated the same. ...

The provision that the holder of the permit must be onboard kicks in upon the first transfer of that permit. And at that first transfer it has to go into the hands of a human being who will be onboard. Initial issuees would all be treated equally.

MS. McDOWELL told the committee [CFEC's] preference would be the generic bill, but she understands it is a big policy call for the legislature to make. She added that if this were as far as [CFEC] could go right now, it would at least provide a tool for these two fisheries that are currently under a vessel-based moratorium. She noted that the dilemma is that they've been in the vessel-based program for years, so this is a matter of how to transition into a permanent solution for those fisheries.

Number 1799

CO-CHAIR MASEK asked Ms. McDowell to look at page 7, lines 6-15, regarding substitution of vessels. She asked if any language in the bill addresses leasing vessels, and whether that would be allowable.

MS. McDOWELL replied that the bill does not address leasing, but would allow CFEC to adopt regulations for substituting another vessel if the vessel sinks, or if the owner wants to replace the vessel with one of similar characteristics.

MS. McDOWELL, in response to follow-up questions, surmised that letting a person use a permit on a vessel that he or she did not own could be allowed by regulation. She said she thought nothing in the bill would prohibit it, and it would not be difficult to do. That person would have to own the vessel permit, show documentation for the vessel, and use it only on a vessel that "meets those same criteria."

CO-CHAIR MASEK asked Ms. McDowell to clarify page 14, lines 20-24 [Version L], which read as follows:

***Sec.17.** AS 16.43.990(5) is amended to read:

(5) "person" means a natural person;
"person" [AND] does not include a corporation, company, partnership, firm, association, organization, joint venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural person;

MS. McDOWELL answered that under current limited entry law is a definition of "person" as being a natural human being. [Version L] clarifies that anything that is not a human being doesn't fit into the definition. Upon the initial issuance, the permit would go to the person or entity - including a corporation or partnership - that owns the vessel at the time. Any transfers after that must go to a human being - a person under this definition.

MS. McDOWELL explained that historically the only entity that could receive a permit is a living human being, from the initial issuance on. That has worked very well in all fisheries limited to date, because in almost all cases the vessel owner is the person who operates the boat. Now, however, [CFEC] must deal with fisheries that have evolved differently: the vessel is not operated by the person or entity that owns it.

Number 2092

CO-CHAIR MASEK turned to page 7 [lines 9-10] and again stated concern that [Version L] still did not [allow for leasing].

MS. McDOWELL responded that she understood Co-Chair Masek's point, and referred to a portion of lines 12-13, which read:

The commission may require that the permit holder have an ownership interest in a temporarily substituted vessel.

MS. McDOWELL emphasized the word "may". She then referred to [lines 9-10], which read:

A permit holder must have a legal ownership interest in the vessel that is permanently substituted for the vessel identified on the permit.

MS. McDOWELL surmised that it would be a problem for someone who doesn't own a vessel at all. She explained that the provision is meant to "push" it towards the current owner-operator program when someone has a vested interest in the operation but is not just a hired skipper.

Number 2203

REPRESENTATIVE GREEN asked for a definition of ["temporarily" as used in Version L].

MS. McDOWELL replied that "temporarily substituted vessel" means if someone's vessel breaks down in mid-season and is in the shipyard for part of the season, another vessel would be substituted temporarily while the first one is being fixed.

Number 2256

REPRESENTATIVE McGUIRE told the committee she is 30 years old. People in her generation are just coming home after college and don't have \$1 million to invest in a scallop boat. She asked, "What are we doing, as far as limiting the access of our future generations to this way of a livelihood?" She stated her opinion that "essentially what you're doing is you're locking it up with one particular company." She said a person would not be able to buy a new boat without an ownership interest.

REPRESENTATIVE McGUIRE said she understands this is trying to create a system around a fishery that has been operating in a certain way; however, she isn't sure it is the right way. She added, "These operations are owned in large part by people in the Lower 48 [who] are going to have these permits."

Number 2346

MS. McDOWELL responded that it sounds as though the philosophical question is limited entry in general, not just vessel limited entry. She noted that she'd done a briefing for the [House Special Committee on Fisheries] earlier this year regarding what the legislature had in mind when it did the original limited entry program. She said it was a pragmatic solution to realizing that unchecked growth in a fishery can destroy the fishery, for example, by reducing the time of an opening to 24 hours so that no one can make a living.

MS. MCDOWELL listed variables considered to create some stability in the fisheries: length of season, amount of gear, and number of participants, for example. She stated that she thinks the number of participants is one variable with which the legislature thought it could effect change. She said the legislature carefully crafted that program to empower the fishermen in their rights.

MS. McDOWELL, in further response to Representative McGuire, said the current limited entry program is based on grandfathering-in those with the most participation. A point system was developed to figure out who is the most "currently economically dependent on that fishery," and those are the ones who get the initial permits. From then on [those permits] are fully transferable, either by gift or by sale.

MS. McDOWELL reported that over the 27 years of limited entry, 30-40 percent of all transfers have been by gift, not by sale; it keeps [permits] in families. She added that the fact that they are freely transferable is what keeps the program constitutional. She pointed out that the permits cannot be used for collateral and are not "lienable" property except in the state loan programs under C-FAB (Commercial Fisheries and Agricultural Bank) and the Division of Investments. Both those loan programs are only available to Alaskans. Ms. McDowell said although [the limited entry program] is well crafted, the downside is that some people are excluded.

MS. McDOWELL went on to say that under this program, people do get in. They often start out in the smaller-boat fisheries until they can work their way up and afford a bigger vessel. The program has been successful: 77 percent of all permits are in the hands of Alaskans.

TAPE 01-33, SIDE B

Number 2470

MS. McDOWELL responded to a question by Representative McGuire by admitting that [Version L] is "tough" for her to defend because her heart is in the other program. She stated that the legislature directed [CFEC] to do this bill. It is a pragmatic response to dealing with programs that don't fit the original model - they're not mom-and-pop operations, and they have hired skippers.

MS. McDOWELL explained that most fisheries which evolved that way in the past were high-seas fisheries managed by the federal government. They were managed by the North Pacific [Fishery Management] Council, and CFEC didn't have to deal with them. Now, however, there are state-managed fisheries in the EEZ (exclusive economic zone). The state didn't have tools to deal with them, so fishermen came to the legislature in 1996 and got a moratorium based on vessels. These two fisheries, under a vessel-based moratorium since 1996, primarily involve vessels run by the skippers but owned by partnerships and companies. Ms. McDowell elaborated:

The legislature directed us to come up with a generic bill for creating a vessel-based program to use only when a current program couldn't meet the purposes of limited entry, which is conservation and avoiding economic distress in the fishery.

The generic bill that we did bring forth was tightly constructed to say "you will always default to the original program unless you can demonstrate that there's no way to get a handle on it in that program."

So, this is ... a significant policy call for the legislature. It is a departure from our current program. ... We think it is a useful tool to have for fisheries that you want to keep a handle on In some of these fisheries, if they remain open-access, they'll have to be closed because eventually [we] can't manage them.

Another option is to let the feds have them to manage; let them preempt state management.

Number 2385

REPRESENTATIVE McGUIRE restated options: doing nothing and letting the federal government step in, which it may or may not do; reenacting the moratorium, which really doesn't solve the problem; or passing the legislation. She asked Ms. McDowell if she knew of any other alternative that would give young Alaskans who want to come into a big-boat fishery [a chance].

Number 2349

MS. McDOWELL replied that the big-boat fisheries require enormous investments; they are not entry-level fisheries. People don't go into them unless they've worked their way up through a lot of other fisheries. She stated her belief that there isn't any way to turn the Korean hair crab and scallop fisheries into entry-level fisheries.

Number 2299

JEFFREY STEPHAN (ph), Manager, United Fishermen's Marketing Association (UFMA), testified via teleconference on behalf of UFMA's members, many of which are crab fishermen. He said UFMA would support HB 206 and would like to see the flexibility left in it, to allow the vessel limited entry to be applied in fisheries other than those for hair crab and scallops.

MR. STEPHAN provided some history. He said UFMA's members supported the legislation that established the moratorium back in 1996 because they thought there was a good rationale. At the time, UFMA was interested in having the flexibility extended to other fisheries, but CFEC lacked the ability to do limited entry in vessels, so it had to ask the legislature for a moratorium. He added, "At that time we asked for some language, which was included, that asked CFEC to do a study and provide a bill several years later."

MR. STEVEN suggested that if the need exists [for this legislation] for hair crab and scallop [fisheries], it likely indicates the need may exist elsewhere. He encouraged the committee to look for options for vessel limited entry in other fisheries; UFMA believes CFEC would be better equipped to have that flexibility and those additional tools, and should be able to work with participants of each fishery to decide what is the best basis: vessel, permit-holder, or some kind of hybrid. He mentioned that he had discussed the hybrid idea with some commissioners in the past and recalled advocating the concept to former commissioner Dale Anderson (ph). He also mentioned the "salmon model" at a time when canneries owned a lot of the

vessels, to get the permits into the hands of individual permit fishermen.

Number 2133

REPRESENTATIVE GREEN asked Ms. McDowell for her opinion regarding previous testimony that scallop fisheries should be dropped from bill, so it focuses solely on hair crab fisheries.

Number 2156

MS. McDOWELL responded that she thought the comment that the scallop fishery had been taken care of "came from a statement that Joe Collin (ph) made the other day." She said it is only taken care of in the federal waters; Alaska still has a state-water scallop fishery currently under moratorium that needs to be limited.

REPRESENTATIVE GREEN said, "So, you prefer it as it is, rather than to drop it."

MS. McDOWELL concurred.

Number 2089

MR. MERRIGAN added the following:

If ... you go the operator system and you get excess amount of permits in a fishery, ... people [should be] aware how hard it is to go backwards ... in buy-back programs. In fact, the state buy-back system is defunct; it's unconstitutional. And you have to buy back both the permits and gear. So, if you didn't go with vessel licensing, and you did go with, say, an owner system, and you created four or five times the number of participants, you're kind of stuck.

And that's why ... you see lots of difficulties in Southeast fisheries, where we're trying to get down to the maximum number of permits. And we're having great difficulty in retiring permits because the system isn't there. So then you have to look outside for federal money.

So it's ... kind of a problem: if you do end up with too many participants, you don't have anything available for young Alaskans [because there] won't be

a fishery. So ... instead of getting too many operator permits in there, that's why this is the ... option to only be used in those kind of circumstances. Thank you.

Number 2029

CO-CHAIR SCALZI closed public testimony. He told the committee he and the previous speaker, Jeff Stephen (ph), although long-time friends, were "on opposite sides of the IFQ [individual fishery quota] battle." He said it was encouraging to hear Mr. Stephen say that he noticed that by the time a limited entry system is needed, it's too late - there are too many participants.

CO-CHAIR SCALZI went on to say that is why the tools are needed, and he certainly would have supported the original bill. However, he knows there has been concern and public testimony [about the original version]; therefore, he was ready to support the proposed CS [Version L]. He noted Representative McGuire's concern for getting young people into the fishery, and said that issue was a concern during the IFQ debate. He said it is very important that there be an entry level in any form of limited entry system. He continued:

Under this scenario, ... certainly the next generation would have to be "owner onboard." What that does is it actually lowers the level of the price that you would pay for an entry fishery like that, because all of a sudden you can't be an absentee owner - you have to be there.

CO-CHAIR SCALZI told the committee he had flown out to the [Pribilof Islands] several years ago to look into working the hair crab fishery. He commented that he owns a 63-foot vessel. He said, "I guarantee [there] was a lot of big water out there that time of year." He remarked that the fishery has been well described by testifiers, including Ms. McDowell.

Number 1920

CO-CHAIR MASEK reiterated her concern over the language on page 7, asking that the word "must" be changed to "may".

Number 1910

REPRESENTATIVE McGUIRE asked if that would conflict with the basic concept just stated by Co-Chair Scalzi regarding keeping the price down and owner-operators.

Number 1930

CO-CHAIR SCALZI responded that he is not sure [making that change] would cause a conflict. He stated his belief that [Co-Chair] Masek's intent is good, however. He elaborated:

If we're talking about just the substitution of vessels, where the owner needs to change a vessel for purposes of a fishery, then we might want to say "may". If we're talking about a permanent substitution of vessel, then I think "must" is fine because that would require the owner onboard.

CO-CHAIR SCALZI asked Ms. McDowell for her opinion.

Number 1853

MS. McDOWELL suggested the real issue that Co-Chair Masek is addressing relates more to the transfer. She mentioned the second-generation provision and said the question is, "Do you want to make sure that ... when they transfer it, the next generation has to have ownership interest?" She referred to [page 6, lines 9-11 of Version L], which read:

(b) Except as provided under (c) of this section, a person or entity that received a transferable vessel entry permit upon the initial issuance of vessel entry permits for a fishery may not transfer the permit to another entity.

MS. McDOWELL said the phrase "may not transfer the permit to another entity" captures the heart of the second-generation language of the bill: if the permit is going to be transferred, it has to go to a person. To Co-Chair Masek she said, "I guess you're still saying you want it to go to a person; it's a matter of whether that person then must have an ownership interest."

CO-CHAIR MASEK responded that it is an issue of leasing. As currently worded, it seems one must have legal ownership of the vessel substituted; therefore, it does not allow for leasing.

Number 1783

CO-CHAIR SCALZI suggested the question would be, "If you own the permit, could you lease the vessel?" He asked for clarification regarding whether this is regarding a first- or second-generation transaction.

MS. McDOWELL pointed out a sentence on page 6, lines 5-6, which read:

The transferee of a vessel entry permit must have a legal ownership interest in the vessel identified on the vessel entry permit.

MS. McDOWELL commented, "That's the real issue here, I guess: ... At first generation or second generation - anytime - does the permit holder have to have an ownership interest in the vessel the permit is used on?"

CO-CHAIR SCALZI stated that the first generation has to [have an ownership interest], because [the permit] is going to the vessel.

MS. McDOWELL said, "It'll be initially issued to the owner."

CO-CHAIR SCALZI asked if this applies to the second generation, who may own the permit but may not own a vessel, but just has to be onboard.

MS. McDOWELL replied, "No, they also have to have an ownership interest."

CO-CHAIR SCALZI said he understood that was the case under this language, but asked if it was necessary, and if it was the intent.

MS. McDOWELL said it was the intent, but told members it was a policy call for them to make. She explained that [Version L] was drafted this way in an attempt to "push it towards owner-operator"; avoid absentee ownership; and [ensure that] the person doing the fishing has a vested ownership interest in the fishery.

Number 1718

REPRESENTATIVE GREEN asked if an owner with a one-ninth interest would qualify.

MS. McDOWELL answered that this allows [CFEC] to set minimum requirements. In further response, she noted that the level at which the requirements are set would depend upon the fishery and ownership patterns. She added that [CFEC] has to acknowledge that these are expensive vessels, and doesn't want to prohibit people from pooling resources to buy a permit and vessel together. However, beginning with the second generation, someone who is at least a part owner would have to be onboard.

MS. McDOWELL remarked, "It doesn't turn this into our current program - you'll never get there." She said a fishery is going to evolve one way or another. Without these provisions, the fear voiced by fishermen is that this would evolve toward absentee corporate ownership.

REPRESENTATIVE GREEN presented the following possible scenario: Several people invest together in a vessel and permit. All but one are mature in years; one is 30 years old. They give the younger partner a share for considerably less and want to put [the vessel permit] in his name because he will be around a lot longer. In response to a comment by Ms. McDowell, Representative Green concurred that the 30-year-old partner would be the one whom the others would want onboard the vessel. He asked if the above scenario would qualify under this [provision].

MS. McDOWELL answered in the affirmative. As John Winther had testified, this provision might actually open up opportunities for locals in the crab fisheries, because the people with all the money may want somebody who is willing to go out and do all the work. She added that there are no guarantees that [Version L] would "push it" in the direction intended, but the intent is there.

Number 1593

REPRESENTATIVE MCGUIRE stated her belief that Ms. McDowell's heart is "in the right spot." She said she hopes there will be a continuing move to monitor [limited entry]; if something doesn't work, regulations could be changed "to steer it back again."

MS. McDOWELL said she could only speak for herself, but as long as she is commissioner, her heart "is certainly there." She added that she understands the concerns of fishermen who want the bill to be "tight" enough to "keep a handle on it" when other commissioners take over who "have other feelings."

Number 1539

CO-CHAIR MASEK moved to report CSHB 206 [version 22-LS0426\L, Utermohle, 4/9/01] out of committee with individual recommendations and the attached zero fiscal note.

[Representative Stevens clarified that the motion was on the proposed committee substitute. There being no objection, CSHB 206(RES) was moved from the House Resources Standing Committee.]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 6:32 p.m.