

SENATE BILL NO. 61

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR WAGONER

Introduced: 2/7/03

Referred: Labor and Commerce, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to commercial fishing permit brokers; and providing for an effective
2 date."

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

4 * **Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

5 (38) regulation of commercial fishing permit brokers under
6 AS 16.10.570 - 16.10.589.

7 * **Sec. 2.** AS 08.01.050(a) is amended by adding a new paragraph to read:

8 (22) registration of brokers of commercial fishing permits under
9 AS 16.10.570 - 16.10.589.

10 * **Sec. 3.** AS 08.01.087(a) is amended to read:

11 (a) The department may, upon its own motion, conduct investigations to

12 (1) determine whether a person has violated a provision of this chapter
13 or a regulation adopted under **this chapter** [IT], or a provision of **AS 16.10.570 -**
14 **16.10.589 or** AS 43.70, or a provision of this title or regulation adopted under this title

1 dealing with an occupation or board listed in AS 08.01.010; or

2 (2) secure information useful in the administration of this chapter.

3 * **Sec. 4.** AS 08.01.087(b) is amended to read:

4 (b) If it appears to the commissioner that a person has engaged in or is about
5 to engage in an act or practice in violation of a provision of this chapter or a regulation
6 adopted under **this chapter** [IT], or a provision of **AS 16.10.570 - 16.10.589 or**
7 **AS 43.70**, or a provision of this title or regulation adopted under this title dealing with
8 an occupation or board listed in AS 08.01.010, the commissioner may, if the
9 commissioner considers it in the public interest, and after notification of a proposed
10 order or action by telephone, telegraph, or facsimile to all board members, if a board
11 regulates the act or practice involved, unless a majority of the members of the board
12 object within 10 days,

13 (1) issue an order directing the person to stop the act or practice;
14 however, reasonable notice of and an opportunity for a hearing must first be given to
15 the person, except that the commissioner may issue a temporary order before a hearing
16 is held; a temporary order remains in effect until a final order affirming, modifying, or
17 reversing the temporary order is issued or until 15 days after the person receives the
18 notice and has not requested a hearing by that time; a temporary order becomes final if
19 the person to whom the notice is addressed does not request a hearing within 15 days
20 after receiving the notice; the commissioner or the commissioner's designee shall be
21 the hearing officer at the hearing and shall issue a final order within 10 days after the
22 hearing;

23 (2) bring an action in the superior court to enjoin the acts or practices
24 and to enforce compliance with this chapter, a regulation adopted under **this chapter**
25 [IT], an order issued under **this chapter** [IT], or with a provision of this title or
26 regulation adopted under this title dealing with business licenses or an occupation or
27 board listed in AS 08.01.010;

28 (3) examine or have examined the books and records of a person
29 whose business activities require a business license or licensure by a board listed in
30 AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may
31 require the person to pay the reasonable costs of the examination; and

1 (4) issue subpoenas for the attendance of witnesses, and the production
2 of books, records, and other documents.

3 * **Sec. 5.** AS 08.01.102 is amended to read:

4 **Sec. 08.01.102. Citation for unlicensed practice or activity.** The
5 department may issue a citation for a violation of a license requirement under this
6 chapter, AS 16.10.570 - 16.10.589, or AS 43.70 if there is probable cause to believe a
7 person has practiced a profession or engaged in business for which a license is
8 required without holding the license. Each day a violation continues after a citation
9 for the violation has been issued constitutes a separate violation.

10 * **Sec. 6.** AS 16.10 is amended by adding new sections to read:

11 **Article 11. Commercial Fishing Permit Brokers.**

12 **Sec. 16.10.570. Registration of broker.** (a) A person may not engage in the
13 business of purchasing, selling, leasing, or transferring a commercial fishing permit on
14 behalf of a buyer, seller, lessee, transferee, holder, or owner of the permit unless the
15 person is registered with the Department of Community and Economic Development
16 as a broker of commercial fishing permits.

17 (b) An applicant for registration as a broker of commercial fishing permits
18 under (a) of this section shall file an application, a bond required by AS 16.10.575,
19 and an application fee established by the department by regulation with the
20 department.

21 (c) The department shall prescribe and furnish the form of application for
22 registration as a broker of commercial fishing permits. The application must contain

23 (1) the name of the applicant and the name of the business under which
24 the applicant operates;

25 (2) the address of the main office of the applicant; and

26 (3) other information the department requires.

27 (d) The department shall approve an application for registration as a
28 commercial fishing permit broker under this section if the application contains the
29 information required under (c) of this section and the bond complies with
30 AS 16.10.575.

31 (e) A broker of commercial fishing permits shall renew the registration

1 required under (a) of this section every two calendar years by filing a request for
 2 renewal, the bond required under AS 16.10.575, and a renewal fee established by the
 3 department by regulation with the department.

4 **Sec. 16.10.575. Bond.** (a) An applicant for registration or renewal of a
 5 registration under AS 16.10.570 shall file with the application or request for renewal,
 6 and shall maintain in force while registered, a \$100,000 bond that is in favor of the
 7 state and that is executed by an authorized corporate surety approved by the
 8 department.

9 (b) Instead of the corporate surety bond required under (a) of this section, the
 10 department may, in the department's sole discretion, accept a bond in the same amount
 11 with at least two individual sureties. A surety shall provide as security real property
 12 that has a fair market value that is equal to two times the amount of the bond. The
 13 department shall, as necessary, investigate the actual financial responsibility of the
 14 individual sureties.

15 (c) The bond required by this section is conditioned on the applicant's
 16 complying with AS 16.10.570 - 16.10.589 and not committing fraud or making
 17 fraudulent representations in the course of doing business as a broker of commercial
 18 fishing permits.

19 (d) A surety may cancel the bond after giving the department 30 days' advance
 20 written notice. Cancellation does not relieve a surety of liability arising on the bond
 21 from actions of the bonded broker before cancellation or a liability that accrues against
 22 the bond before cancellation. The department shall retain the cancelled bond on file.

23 **Sec. 16.10.580. Action on bond.** If a person suffers loss or damage by reason
 24 of a broker registered under AS 16.10.570 violating AS 16.10.570 - 16.10.589 or
 25 committing fraud or making fraudulent representations in the course of doing business
 26 as a broker, the person may bring an action against the broker and the surety upon the
 27 bond. The aggregate liability of the surety may not exceed the amount of the bond.

28 **Sec. 16.10.585. Penalty.** (a) A person who knowingly violates AS 16.10.570
 29 - 16.10.589 is guilty of a class A misdemeanor.

30 (b) In this section, "knowingly" has the meaning given in AS 11.81.900.

31 **Sec. 16.10.589. Definitions.** In AS 16.10.570 - 16.10.589,

1 (1) "commercial fishing permit" means a transferable permit, license,
2 or other authorization issued by the state or federal government that is a legal
3 prerequisite for a person or commercial fishing vessel to engage in commercial fishing
4 or in processing of a commercial fishing resource;

5 (2) "department" means the Department of Community and Economic
6 Development.

7 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 IMPLEMENTATION. The Department of Community and Economic
10 Development shall issue the initial commercial fishing permit broker registrations for
11 calendar years 2004 and 2005 to qualified applicants before January 1, 2004.

12 * **Sec. 8.** AS 16.10.570(a), added by sec. 6 of this Act, takes effect January 1, 2004.

13 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect immediately under
14 AS 01.10.070(c).