

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 19, 2007

8:36 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Kyle Johansen
Representative Craig Johnson
Representative Gabrielle LeDoux
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 14

Urging the United States Congress to enact Senate Bill 552 so that individuals receiving a damage award from the Exxon Valdez oil spill can benefit from the income averaging and retirement contribution provisions of the bill.

- MOVED CSHJR 14(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 186

"An Act relating to sharing with certain federal agencies records required of sport fishing guides."

- HEARD AND HELD

HOUSE BILL NO. 15

"An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 14

SHORT TITLE: FED S 552/HR 1334; EXXON PLAINTIFFS

SPONSOR(s): FISHERIES

03/14/07 (H) READ THE FIRST TIME - REFERRALS
03/14/07 (H) FSH, RES
03/19/07 (H) FSH AT 8:30 AM BARNES 124

BILL: HB 186

SHORT TITLE: SPORT FISHING GUIDE RECORDS
SPONSOR(S): REPRESENTATIVE(S) HARRIS BY REQUEST

03/12/07 (H) READ THE FIRST TIME - REFERRALS
03/12/07 (H) FSH, RES
03/19/07 (H) FSH AT 8:30 AM BARNES 124

BILL: HB 15

SHORT TITLE: BOARD OF FISHERIES CONFLICTS OF INTEREST
SPONSOR(S): REPRESENTATIVE(S) SEATON

01/16/07 (H) PREFILE RELEASED 1/5/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) FSH, RES
03/14/07 (H) FSH AT 8:30 AM BARNES 124
03/14/07 (H) Heard & Held
03/14/07 (H) MINUTE(FSH)
03/19/07 (H) FSH AT 8:30 AM BARNES 124

WITNESS REGISTER

JERRY MCCUNE, Lobbyist
United Fishermen of Alaska (UFA)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HJR 14.

FRANK MULLEN
Homer, Alaska
POSITION STATEMENT: Testified on HJR 14.

TOM WRIGHT, Staff
to Representative John Harris
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 186, on behalf of
Representative Harris, prime sponsor.

DOUGLAS VINCENT-LANG, Special Projects Coordinator
Division of Sport Fish
Alaska Department of Fish & Game (ADF&G)
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 186, responded to questions.

VICTORIA O'CONNELL
Coastal Marine Research
Sitka, Alaska

POSITION STATEMENT: Testified in support of HB 186.

KATHY HANSEN, Executive Director
Southeast Alaska Fisheries Alliance (SAFA)
Statewide Chair, United Fishermen of Alaska (UFA)
Commercial Representative, North Pacific Fishery Management
Council (NPFMC) Charter Halibut Stakeholder Group
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 186.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at [8:36:27 AM](#). Representatives Wilson, Johansen, LeDoux, Johnson, and Edgmon were present at the call to order. Representative Holmes arrived as the meeting was in progress.

HJR 14-FED S 552/HR 1334; EXXON PLAINTIFFS

[8:36:38 AM](#)

CHAIR SEATON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 14, Urging the United States Congress to enact Senate Bill 552 so that individuals receiving a damage award from the Exxon Valdez oil spill can benefit from the income averaging and retirement contribution provisions of the bill.

[8:37:28 AM](#)

REPRESENTATIVE WILSON moved that the committee adopt CSHJR 14, Version 25-LS0639\K, Bullock, 3/15/07, as the working document. There being no objection, Version K was before the committee.

[8:38:14 AM](#)

CHAIR SEATON explained that the resolution basically urges the United States Congress to enact S. 552 and H.R. 1334.

[8:39:33 AM](#)

JERRY MCCUNE, Lobbyist, United Fishermen of Alaska (UFA), related UFA's support for HJR 14. Mr. McCune noted his appreciation for the introduction of the resolution as [the passage of the congressional legislation] will be an uphill battle. The proposals in Congress would be very helpful with regard to retirement and income averaging if there ever is an award awarded from the Exxon Valdez oil spill.

REPRESENTATIVE LEDOUX recalled reading that fishermen wouldn't be able to deduct the attorney's fees from the settlement when they pay their taxes. She asked if that's correct.

MR. MCCUNE responded that one opinion is based on a case in Florida in which someone received a punitive damage award in which that individual had to pay taxes on the entire award, although a portion of it was for attorney's fees. Another opinion is that self-employed persons shouldn't have to follow that rule. However, it's still in the air.

[8:42:01 AM](#)

FRANK MULLEN informed the committee that he is a life-long commercial fisherman as well as a financial planner. He related that he has been working for years with the attorney groups to obtain some tax mitigation. The idea of S. 552 that HJR 14 addresses makes it clear that it's a one-time only exemption for existing caps to individual retirement account (IRA) contributions and the income averaging concept. He then emphasized that this isn't an effort to dodge taxes, however, if the amount of the mitigation award can be made into an IRA versus receiving an award that would be taxed at 35 percent, it would be helpful for the fishermen who have been awaiting these funds for 18 years.

[8:44:57 AM](#)

CHAIR SEATON closed public testimony.

[8:45:01 AM](#)

REPRESENTATIVE WILSON moved to report CSHJR 14, Version 25-LS0639\K, Bullock, 3/15/07, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 14(FSH) was reported from the House Special Committee on Fisheries.

HB 186-SPORT FISHING GUIDE RECORDS

8:47:06 AM

CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 186, "An Act relating to sharing with certain federal agencies records required of sport fishing guides."

8:47:17 AM

TOM WRIGHT, Staff to Representative John Harris, Alaska State Legislature, speaking on behalf of Representative Harris, prime sponsor, began by mentioning that HB 186 was requested by charter operators in the Prince William Sound. The legislation makes minor amendments to statute such that the Alaska Department of Fish & Game (ADF&G) would be allowed to release catch information from sport charter guides to the National Oceanic and Atmospheric Administration (NOAA) and the National Marine Fisheries Service (NMFS). The aforementioned could result in the agencies making better-informed decisions. He noted that the information released to NOAA and NMFS would remain confidential and may not be released to the public under these statutes.

8:48:41 AM

REPRESENTATIVE JOHNSON inquired as to whether the names of the people, who catch the fish, are released.

MR. WRIGHT deferred to ADF&G.

8:49:10 AM

DOUGLAS VINCENT-LANG, Special Projects Coordinator, Division of Sport Fish, Alaska Department of Fish & Game (ADF&G), said that these are records that are collected as part of the logbook information, which would include the license number of the angler. He explained that when ADF&G is trying to maintain the charter fleet under its guideline harvest levels in Area 15-3A, one of the management measures that was relatively well-supported was an annual limit. However, ADF&G was told that it couldn't share its logbook, which is necessary to enforce an annual limit by NMFS, although it could be shared with NOAA. He characterized it as an oversight when the guide licensing legislation was created. The information also couldn't be shared with the International Pacific Halibut Commission (IPHC). The aforementioned meant that an annual limit on halibut

charters would require the implementation of a federally enforced logbook program. Therefore, the fishermen would have two logbooks. At that point, the notion was to amend the statutes because even if the information was shared with NMFS enforcement, it would remain confidential. The only exception is if someone breaks the law and the matter goes to court, at which point it would become public.

[8:51:24 AM](#)

CHAIR SEATON related his understanding that the legislation is written such that it's only related to sport fish, not commercial fish histories and catch histories.

MR. VINCENT-LANG pointed out that under the existing statute fish tickets and fish ticket information can be shared commercially with NMFS. The legislation would merely add records required of sport fishing guides into that statute. In further response to Chair Seaton, Mr. Vincent-Lang specified that this legislation wouldn't change anything related to commercial fish statistics, fish tickets, or fish ticket information. This legislation only allows ADF&G to share sport fishing records from sport fishing guides with NMFS enforcement and IPHC.

[8:52:49 AM](#)

VICTORIA O'CONNELL, Coastal Marine Research, informed the committee that she is a retired commercial fisheries biologist with the State of Alaska. Ms. O'Connell urged the committee to support HB 186, as sharing data is critical for the management of the halibut resource. She noted that such data, including logbook, fish ticket data, and other catch records, has been shared routinely in commercial fisheries. She then suggested that the language be changed to allow data sharing for other species such as yellow eye rockfish, which are a by-catch of the halibut and charter fishery. The aforementioned would provide the council the ability to evaluate the impacts of halibut management measures to other species. Although the state does manage yellow eye rockfish, it's done under an agreement with the council.

[8:54:18 AM](#)

CHAIR SEATON asked if Ms. O'Connell is expressing the need to share data on just the yellow eye rockfish or all of the logbook data.

MS. O'CONNELL opined that it would make sense to share [data] on all of the ground fish species, including ling cod, because there will be impacts with different management measures. She highlighted the importance of all agencies to understand the full implications of management. In response to Representative Wilson, Ms. O'Connell suggested: following "halibut" inserting the language "and other ground fish" on page 3, line 4. She then questioned why NMFS wasn't included in that provision as it would allow sharing with the council.

MR. VINCENT-LANG pointed out that under paragraph (9) on page 2 the department can share any records dealing with the records required of sport fishing guides with NMFS and NOAA. He noted that it's not limited to halibut in that case. Under Section 1 of the existing law, ADF&G can already share with NMFS all of the department's records for sport fishing guides with respect to all species. He related his understanding that under paragraph (10) on page 3, ADF&G would only share halibut with IPHC because that's the only fishery it manages. "All other records, in terms of development of fishery management plan for either state or federal actions, would be done under (9) and those could include ling cod, rockfish, salmon, for that matter," he specified.

[8:57:08 AM](#)

CHAIR SEATON pointed out that the North Pacific Fisheries Management Council (NPFMC) has a very active role in managing halibut. He asked if ADF&G is currently able to share halibut data with NPFMC.

MR. VINCENT-LANG replied yes, under [paragraph] (1); however, not under the enforcement actions under paragraph (9). In further response to Chair Seaton, Mr. Vincent-Lang clarified that currently the department is able to share with NPFMC all of the halibut records, but not with NMFS enforcement.

[8:58:20 AM](#)

REPRESENTATIVE WILSON inquired as to what more data is necessary.

MR. VINCENT-LANG reiterated that currently ADF&G can't share information collected from the logbook program with NMFS enforcement or the IPHC. The desire is to provide that information to those organizations. He explained that if the

information can be shared with NMFS enforcement, there is the potential to have an annual limit using the state logbook rather than have the charter boat operators carry two logbooks.

REPRESENTATIVE WILSON surmised then that what Ms. O'Connell discussed is already included in the legislation.

MR. VINCENT-LANG related his understanding that Ms. O'Connell suggested the need to also share groundfish records, other than halibut, with the International Pacific Halibut Commission (IPHC).

REPRESENTATIVE WILSON asked whether that would make a difference for the other groundfish and be good to include in HB 186.

MR. VINCENT-LANG explained that HB 186 was drafted recognizing that the primary management agency responsible for developing a fishery management plan for the groundfish species wasn't IPHC but rather NPFMC, which was already covered. Therefore, this legislation was drafted to ensure that ADF&G could share information on halibut with IPHC and with federal NMFS enforcement as that wasn't covered.

[9:00:28 AM](#)

CHAIR SEATON related his understanding that there isn't the necessity to share the state ling cod data with IPHC because it doesn't design regulations for limiting that bycatch. He asked if that's the philosophy.

MR. VINCENT-LANG replied yes, and added that the desire is to share as much information as possible to make the best management decisions possible.

[9:01:28 AM](#)

KATHY HANSEN, Executive Director, Southeast Alaska Fisheries Alliance (SAFA); Statewide Chair, United Fishermen of Alaska (UFA); Commercial Representative, North Pacific Fishery Management Council (NPFMC) Charter Halibut Stakeholder Group, clarified that she would be speaking on behalf of all three organizations today. She related support for HB 186, as timely passage of it is a critical aspect of halibut management. The NPFMC is currently reviewing management measures for Area 2C of the halibut fishery. Without the passage of HB 186, many options such as annual limits wouldn't be considered. Furthermore, another layer of bureaucracy will be necessary on

the federal side because the charter operators would have to keep two different logbooks [due to the lack of data sharing]. Ms. Hansen then informed the committee that NPFMC is also looking at taking final action on the charter industry for halibut at the April meeting. With the passage of this data-sharing legislation, all the logbook is able to be shared with NMFS for the implementation of the moratorium otherwise the charter operator will have to request a certified copy of his/her information to provide to NMFS. She pointed out that this data sharing has been done for the commercial fishing industry just not for the charter fishing industry. It's very important to pass this session as it faces final action decisions by the council in its upcoming meetings.

[9:04:49 AM](#)

MS. HANSEN suggested that Ms. O'Connell's concern could be addressed by deleting the language "regarding halibut" on page 3, line 4. Such a change would allow the logbook data to be shared with IPHC. She opined that limiting the sharing of data with IPHC to one species would make the situation more complicated.

[9:05:40 AM](#)

MS. HANSEN, in response to Representative Johnson, clarified that the legislation needs to be in place by the end of session so that when NPFMC addresses the final action on Area 2C management measures. She noted that although the council will take final action on the moratorium at its April meeting, it won't be implemented for a year.

REPRESENTATIVE JOHNSON asked if an immediate effective date is necessary or is passage of the legislation sufficient. He commented that he wasn't aware that the situation was urgent.

CHAIR SEATON indicated that it may not be if the enforcement isn't going to occur until a year from now.

REPRESENTATIVE JOHNSON inquired as to whether this will allow [the sharing] of past records, in which case [an immediate effective date] would be appropriate.

MS. HANSEN responded that an immediate effective date isn't necessarily required, but NPFMC does need to know that the data sharing will be available when they put a management measure in place.

MS. O'CONNELL related her belief that an immediate effective date is important. She explained that NMFS is about to release proposed rule-making for the 2007 season. If HB 186 had passed, an annual limit, which she believed would be less detrimental to stocks than other options, could be under consideration. Furthermore, the legislation would send a message that the legislature is taking the matter seriously and the council should as well.

[9:09:51 AM](#)

CHAIR SEATON closed public testimony.

[9:10:00 AM](#)

MR. WRIGHT noted his agreement that an immediate effective date would be helpful in the long run.

[9:10:20 AM](#)

MR. VINCENT-LANG, regarding paragraph (10), pointed out that the language, "regarding halibut," exists in statute. The legislation merely adds the language "and records required of sport fishing guides." Therefore, removal of the language "regarding halibut" would, in essence, allow fish ticket and fish ticket information from the commercial fisheries for other species to be given to IPHC. Under existing statute, the only information to be given to IPHC is regarding halibut. In response to Representative Johnson's earlier question, Mr. Vincent-Lang said he would interpret the language to mean that the sharing of historical data as well as information going forward could be shared.

[9:11:38 AM](#)

CHAIR SEATON inquired as to when the logbook recordkeeping would go into effect.

MR. VINCENT-LANG related that there is information going back to 1996.

CHAIR SEATON asked if that's the logbook that ADF&G didn't find effective for use for an allocation scheme.

MR. VINCENT-LANG stated that any information shared will be qualified as to its quality in terms of management decisions.

He recalled that in the late 1990s there was information that would've been difficult to utilize with regard to decisions of an individual quota share system. However, there is information in the logbooks that illustrate evidence of participation in a fishery that may not reach the level of awarding an individual fishery quota or anything else that the federal government may do. Although there may be some problems with that data, some of it could be useful for management purposes in terms of evaluating annual limits.

9:13:16 AM

CHAIR SEATON described the possibility of the passage time-line for HB 186 and related his intention to hold HB 186 for further public comment on Wednesday.

9:14:42 AM

REPRESENTATIVE JOHNSON inquired as to the need to remove the language "regarding halibut" on page 3, line 4.

CHAIR SEATON related his understanding from the department's testimony that by so doing, all commercial fish ticket landing [information] whether halibut or not would be subject to sharing with the IPHC, which isn't the intent. He opined that deletion of the language "regarding halibut" would be broadened such that it could be problematic.

MR. VINCENT-LANG clarified that removing the language "regarding halibut" means that all fish tickets, fish ticket information, and sport fishing guide information, both commercial and sport, would be available to be shared with the IPHC. This legislation was written to ensure that the halibut information could be shared in a fashion similar to how the commercial information will be shared with the IPHC.

CHAIR SEATON surmised then that currently fish ticket information and fish tickets regarding halibut are shared with the IPHC for the commercial fisheries. He further surmised that the intention with HB 186 was to add that same provision for records regarding sport fishing. Therefore, removal of the language "regarding halibut" would expand the legislation such that all of the commercial fish tickets and commercial fish ticket information is shared for all species with IPHC.

MR. VINCENT-LANG noted his agreement.

9:17:06 AM

REPRESENTATIVE HOLMES remarked that the more important question is in regard to what is desired to be shared, and then it becomes a simple drafting exercise.

9:17:45 AM

REPRESENTATIVE WILSON related her reluctance to provide [all information] until all the ramifications are known.

9:18:11 AM

CHAIR SEATON pointed out that the IPHC doesn't manage the halibut fishery; it only sets the biological limits. The management is with NPFMC with which the data is already shared. He stated reluctance to share information with an international organization that doesn't control [the fishery].

9:19:02 AM

REPRESENTATIVE LEDOUX concurred with the aforementioned concerns.

9:19:38 AM

MR. VINCENT-LANG clarified:

If the Halibut Commission is going to be making a decision that impacts other species, we'd be able to talk about that. We just would not be able to share the specific line-by-line records. We could still talk about the likely impact of any decision that they have in an aggregate of over all the logbook information that we've collected in aggregate. So, the information would be available, it just wouldn't be available in a line-by-line-by-line basis through the logbooks.

9:20:18 AM

REPRESENTATIVE WILSON moved that the committee adopt Amendment 1, which would add a Section 2, providing for an immediate effective date.

CHAIR SEATON noted that a title change would be required.

There being no objection, Amendment 1 was adopted.

[9:20:56 AM](#)

CHAIR SEATON stated that HB 186 would be held until Wednesday's meeting.

HB 15-BOARD OF FISHERIES CONFLICTS OF INTEREST

[9:21:38 AM](#)

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 15, "An Act relating to participation in matters before the Board of Fisheries by members of the board; and providing for an effective date."

CHAIR SEATON, determining that the witness list was exhausted, closed public testimony on HB 15. In response to Representative LeDoux, Chair Seaton specified that the next committee of referral for HB 15 is the House Resources Standing Committee.

[HB 15 was held over.]

[9:23:30 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 9:23 a.m.