

HOUSE BILL NO. 386

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Introduced: 4/16/14

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act repealing the Alaska Commercial Fisheries Entry Commission and**
2 **transferring its duties to a commercial fisheries entry division established in the**
3 **Department of Fish and Game and the office of administrative hearings."**

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

5 *** Section 1.** AS 16.05.050(a) is amended to read:

6 (a) The commissioner has, but not by way of limitation, the following powers
7 and duties:

8 (1) through the appropriate state agency and under the provisions of
9 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other
10 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real
11 or personal property when the acquisition is in the interest of furthering an objective or
12 purpose of the department and the state;

13 (2) under the provisions of AS 36.30, to design and construct
14 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish

1 and game resources of the state;

2 (3) to accept money from any person under conditions requiring the
3 use of the money for specific purposes in the furtherance of the protection,
4 rehabilitation, propagation, preservation, or investigation of the fish and game
5 resources of the state or in settlement of claims for damages to fish or game resources;

6 (4) to collect, classify, and disseminate statistics, data, and information
7 that, in the commissioner's discretion, will tend to promote the purposes of this title
8 except AS 16.51 and AS 16.52;

9 (5) to take, capture, propagate, transport, buy, sell, or exchange fish or
10 game or eggs for propagating, scientific, public safety, or stocking purposes;

11 (6) under the provisions of AS 36.30, to provide public facilities where
12 necessary or proper to facilitate the taking of fish or game, and to enter into
13 cooperative agreements with any person to effect them;

14 (7) to exercise administrative, budgeting, and fiscal powers;

15 (8) under the provisions of AS 36.30, to construct, operate, supervise,
16 and maintain vessels used by the department;

17 (9) to authorize the holder of an interim-use permit under AS 16.43 to
18 engage on an experimental basis in commercial taking of a fishery resource with
19 vessel, gear, and techniques not presently qualifying for licensing under this chapter in
20 conformity with standards established by the **commercial fisheries entry division of**
21 **the department under AS 16.43** [ALASKA COMMERCIAL FISHERIES ENTRY
22 COMMISSION];

23 (10) not later than January 31 of each year, to provide to the
24 commissioner of revenue the names of those fish and shellfish species that the
25 commissioner of fish and game designates as developing commercial fish species for
26 that calendar year; a fish or shellfish species is a developing commercial fish species
27 if, within a specified geographical region,

28 (A) the optimum yield from the harvest of the species has not
29 been reached;

30 (B) a substantial portion of the allowable harvest of the species
31 has been allocated to fishing vessels of a foreign nation; or

1 (C) a commercial harvest of the fish species has recently
2 developed;

3 (11) to initiate or conduct research necessary or advisable to carry out
4 the purposes of this title except AS 16.51 and AS 16.52;

5 (12) to enter into cooperative agreements with agencies of the federal
6 government, educational institutions, or other agencies or organizations, when in the
7 public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

8 (13) to implement an on-board observer program authorized by the
9 Board of Fisheries under AS 16.05.251(a)(13); implementation

10 (A) must be as unintrusive to vessel operations as practicable;

11 and

12 (B) must make scheduling and scope of observers' activities as
13 predictable as practicable;

14 (14) to sell fish caught during commercial fisheries test fishing
15 operations;

16 (15) to establish and charge fees equal to the cost of services provided
17 by the department, including provision of public shooting ranges, broodstock and eggs
18 for private nonprofit hatcheries, department publications, and other direct services, and
19 reasonable fees for the use of state facilities managed by the department; fees
20 established under this paragraph for tours of hatchery facilities, commercial use of
21 sport fishing access sites, and for operation of state hatchery facilities by private
22 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

23 (16) to permit and regulate aquatic farming in the state in a manner
24 that ensures the protection of the state's fish and game resources and improves the
25 economy, health, and well-being of the citizens of the state;

26 (17) to operate state housing and facilities for employees, contractors,
27 and others in support of the department's responsibilities and to charge rent that is
28 consistent with applicable collective bargaining agreements, or, if no collective
29 bargaining agreement is applicable, competitive with market conditions; rent received
30 from tenants shall be deposited in the general fund;

31 (18) [TO PETITION THE ALASKA COMMERCIAL FISHERIES

1 ENTRY COMMISSION, UNLESS THE BOARD OF FISHERIES DISAPPROVES
 2 THE PETITION UNDER AS 16.05.251(g),] to establish a moratorium on new
 3 entrants into commercial fisheries, **unless the Board of Fisheries disapproves the**
 4 **request under AS 16.05.251(g),**

5 (A) that have experienced recent increases in fishing effort that
 6 are beyond a low, sporadic level of effort;

7 (B) that have achieved a level of harvest that may be
 8 approaching or exceeding the maximum sustainable level for the fishery; and

9 (C) for which there is insufficient biological and resource
 10 management information necessary to promote the conservation and sustained
 11 yield management of the fishery;

12 (19) to promote fishing, hunting, and trapping and preserve the
 13 heritage of fishing, hunting, and trapping in the state;

14 **(20) under the provisions of AS 16.43, to regulate and control**
 15 **entry of participants and vessels into the commercial fisheries in the public**
 16 **interest and without unjust discrimination.**

17 * **Sec. 2.** AS 16.05.251(g) is amended to read:

18 (g) **Upon request of the commissioner, the** [THE] Board of Fisheries shall
 19 consider **imposing** [A REQUEST OF THE COMMISSIONER FOR APPROVAL OF
 20 A PETITION TO THE ALASKA COMMERCIAL FISHERIES ENTRY
 21 COMMISSION TO ESTABLISH] a moratorium on new entrants into a commercial
 22 fishery under AS 16.43.225 at the board's next regular or special meeting that follows
 23 the **board's** receipt [BY THE BOARD] of the request [FOR APPROVAL OF THE
 24 PETITION] and that allows time for the notice required under this subsection. The
 25 board may consider the request of the commissioner [FOR APPROVAL OF THE
 26 PETITION] only after 15 days' public notice of the board's intention to consider **the**
 27 **request** [APPROVAL OF THE PETITION]. The board shall consider whether the
 28 commissioner, in support of the request [FOR APPROVAL OF THE PETITION], has
 29 adequately shown that the fishery meets requirements for a moratorium on new
 30 entrants under AS 16.05.050. The board by a majority vote of its members at the
 31 meeting when the **request** [PETITION] must be considered shall approve or

1 disapprove the request [PETITION].

2 * **Sec. 3.** AS 16.05.450(b) is amended to read:

3 (b) The commercial fisheries entry division of the department [ALASKA
4 COMMERCIAL FISHERIES ENTRY COMMISSION] shall issue a vessel license
5 under AS 16.05.490 to each qualified vessel for which a written application has been
6 filed, at a place in the state designated by the commercial fisheries entry division of
7 the department [COMMISSION], containing the reasonable information required by
8 the commercial fisheries entry division of the department [COMMISSION]
9 together with the required fee. The application shall be simple in form and shall be
10 executed by the applicant under the penalty of unsworn falsification in the second
11 degree.

12 * **Sec. 4.** AS 16.05.480(d) is amended to read:

13 (d) Upon request, the commercial fisheries entry division of the department
14 [OR THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] shall
15 provide a social security number provided by an applicant for a license under this
16 section to the child support services agency created in AS 25.27.010, or the child
17 support agency of another state, for child support purposes authorized under law.

18 * **Sec. 5.** AS 16.05.520 is amended to read:

19 **Sec. 16.05.520. Number plate.** (a) The vessel license includes a permanent
20 number plate. The number plate shall be accompanied by a tab affixed to the number
21 plate designating the year to be fished. A number plate is not transferable, and the
22 number plate shall be considered a permanent fixture on [UPON] the vessel on
23 [UPON] which the number plate is originally placed. The number plate shall be
24 securely fastened well forward on the port side in plain sight. On a vessel with a
25 superstructure, the number plate shall be fastened on the port side of the
26 superstructure. A number plate remains the property of the state. The commercial
27 fisheries entry division of the department [ALASKA COMMERCIAL FISHERIES
28 ENTRY COMMISSION] may establish by regulation a reasonable fee for the initial
29 issuance of a permanent number plate. If a permanent number plate is accidentally
30 defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall
31 immediately apply for and may obtain a duplicate upon furnishing the commercial

1 **fisheries entry division of the department** [ALASKA COMMERCIAL FISHERIES
2 ENTRY COMMISSION] with the pertinent facts and a payment of a reasonable fee
3 established by the **commercial fisheries entry division of the department**
4 [COMMISSION] by regulation that is not less than \$2.

5 (b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner
6 shall immediately report the loss, destruction, or sale to the **commercial fisheries**
7 **entry division of the department** [ALASKA COMMERCIAL FISHERIES ENTRY
8 COMMISSION].

9 * **Sec. 6.** AS 16.05.530(a) is amended to read:

10 (a) Upon payment of the vessel license fee and filing of the name and address
11 of the owner of the vessel or the owner's authorized agent, the name and number of the
12 vessel, a description of the vessel, the vessel license number, if any, the area to be
13 fished, and other reasonable information required by the **commercial fisheries entry**
14 **division of the department** [ALASKA COMMERCIAL FISHERIES ENTRY
15 COMMISSION], the **commercial fisheries entry division of the department**
16 [COMMISSION] shall issue a permanent number plate and a vessel license. If the
17 vessel has a permanent number plate, the **commercial fisheries entry division of the**
18 **department** [COMMISSION] shall issue a vessel license and tab designating the year
19 the license is valid. The tab shall be placed in the space provided on the permanent
20 number plate.

21 * **Sec. 7.** AS 16.05.675(a) is amended to read:

22 (a) A person who does not hold a limited entry permit or interim-use permit
23 issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671 may not
24 deliver or land fish in the state unless the person

25 (1) holds a valid federal permit to operate commercial fishing gear in
26 the fishery conservation zone; and

27 (2) has been issued a landing permit by the **commercial fisheries**
28 **entry division of the department** [ALASKA COMMERCIAL FISHERIES ENTRY
29 COMMISSION].

30 * **Sec. 8.** AS 16.05.675(c) is amended to read:

31 (c) The **commercial fisheries entry division of the department**

1 [COMMISSIONER] may [AUTHORIZE THE ALASKA COMMERCIAL
2 FISHERIES ENTRY COMMISSION TO] issue landing permits for a fishery if the
3 commissioner has made a written finding that the issuance of landing permits for that
4 fishery is consistent with state resource conservation and management goals.

5 * **Sec. 9.** AS 16.05.815(a) is amended to read:

6 (a) Except as provided in (b) and (c) of this section, records required by
7 regulations of the department concerning the landings of fish, shellfish, or fishery
8 products, and annual statistical reports of fishermen, buyers, and processors required
9 by regulation of the department are confidential and may not be released by the
10 department [OR BY THE ALASKA COMMERCIAL FISHERIES ENTRY
11 COMMISSION] except as set out in this subsection. [THE DEPARTMENT MAY
12 RELEASE THE RECORDS AND REPORTS SET OUT IN THIS SUBSECTION TO
13 THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION.] The
14 department [AND THE ALASKA COMMERCIAL FISHERIES ENTRY
15 COMMISSION] may release the records and reports set out in this subsection to the
16 recipients identified in this subsection if the recipient, other than a recipient under (5) -
17 (9) of this subsection, agrees to maintain the confidentiality of the records and reports.
18 The department [AND THE ALASKA COMMERCIAL FISHERIES ENTRY
19 COMMISSION] may release

20 (1) any of the records and reports to the National Marine Fisheries
21 Service and the professional staff of the North Pacific Fishery Management Council as
22 required for preparation and implementation of the fishery management plans of the
23 North Pacific Fishery Management Council within the exclusive economic zone;

24 (2) any of the records and reports to the professional staff of the
25 Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries
26 Information Network project for the purpose of exchanging information with users
27 authorized by the department;

28 (3) any of the records and reports to the Department of Revenue to
29 assist the department in carrying out its statutory responsibilities;

30 (4) records or reports of the total value purchased by each buyer to a
31 municipality that levies and collects a tax on fish, shellfish, or fishery products if the

1 municipality requires records of the landings of fish, shellfish, or fishery products to
2 be submitted to it for purposes of verification of taxes payable;

3 (5) [SUCH] records and reports as necessary to be in conformity with a
4 court order;

5 (6) on request, the report of a person to the person whose fishing
6 activity is the subject of the report, or to a designee of the person whose fishing
7 activity is the subject of the report;

8 (7) on request, annual statistical reports of a fisherman, buyer, or
9 processor to the fisherman, buyer, or processor whose activity is the subject of the
10 report, or to a designee of the fisherman, buyer, or processor whose activity is the
11 subject of the report;

12 (8) any of the records and reports to the Department of Public Safety
13 for law enforcement purposes;

14 (9) fish tickets, fish ticket information, records required of sport
15 fishing guides, and annual statistical reports of fishermen, buyers, and processors and
16 information in those reports to the law enforcement personnel of the National Marine
17 Fisheries Service and the National Oceanic and Atmospheric Administration for the
18 purpose of enforcing fishery laws in waters of this state and in waters of the exclusive
19 economic zone adjacent to this state;

20 (10) fish tickets, fish ticket information, and records required of sport
21 fishing guides regarding halibut to the International Pacific Halibut Commission;

22 (11) any of the records and reports to the child support services agency
23 created in AS 25.27.010, or the child support enforcement agency of another state, for
24 child support purposes authorized under law;

25 (12) any of the records and reports to the Department of Natural
26 Resources to assist the department in carrying out its statutory responsibilities in
27 regard to sport fishing operations and sport fishing guides within the Kenai River
28 Special Management Area under AS 41.21.500 - 41.21.514; and

29 (13) fish ticket information and records or reports of the total value
30 purchased by each fisherman, buyer, or processor to the National Marine Fisheries
31 Service for the purpose of enforcing the industry fee system of a fishing capacity

1 reduction program under 16 U.S.C. 1861a (Magnuson-Stevens Fishery Conservation
2 and Management Act).

3 * **Sec. 10.** AS 16.10.333(a) is amended to read:

4 (a) Loans under AS 16.10.310(a) may be made to an individual commercial
5 fisherman for the purchase of a limited entry permit upon certification by the
6 **commercial fisheries entry division of the Department of Fish and Game**
7 [COMMISSION] that the fisherman is a person who qualifies as a transferee for the
8 permit under AS 16.43 and the regulations adopted **under AS 16.43** [BY THE
9 COMMISSION].

10 * **Sec. 11.** AS 16.10.333(d) is amended to read:

11 (d) Upon satisfaction of the note by the debtor, the commissioner shall certify
12 to the **commercial fisheries entry division of the Department of Fish and Game**
13 [COMMISSION] that the note has been satisfied.

14 * **Sec. 12.** AS 16.10.333(e) is amended to read:

15 (e) Upon certification as provided in (d) of this section, the **commercial**
16 **fisheries entry division of the Department of Fish and Game** [COMMISSION]
17 shall amend the permit certificate to list the debtor as the legal owner.

18 * **Sec. 13.** AS 16.10.335(a) is amended to read:

19 (a) If the debtor defaults **on** [UPON] a note for which a limited entry permit
20 has been pledged as security under AS 16.10.333 or 16.10.338, the commissioner shall
21 provide the debtor, by both certified and first class mail sent to the debtor's last known
22 address on file with the commissioner, with a notice of default that includes

23 (1) a description of the security given for the note including the
24 number assigned to the pledged permit by the **commercial fisheries entry division of**
25 **the Department of Fish and Game** [COMMISSION];

26 (2) the date **on** [UPON] which the default occurred;

27 (3) the amount of the debtor's outstanding principal and interest as of
28 the date of the default notice, the total amount remaining on the note less unearned
29 interest, and the amount of daily interest;

30 (4) a statement that the debtor may, within 15 days after the postmark
31 date of the notice, request a hearing to submit evidence showing the debtor has not

1 defaulted;

2 (5) a statement that the note may be reinstated if it is brought current
3 within 120 days after the postmark date of the notice;

4 (6) a statement that, under AS 16.10.310(a)(4), the debtor may
5 reinstate the note by submitting to the commissioner a plan of repayment if the
6 commissioner accepts the debtor's plan of repayment;

7 (7) the place where reinstatement of the note or payment in full may be
8 made; and

9 (8) a notice in at least 10-point bold type stating: IMPORTANT:
10 YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE
11 SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE
12 PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED
13 AGAINST YOU.

14 * **Sec. 14.** AS 16.10.337(a) is amended to read:

15 (a) Upon a foreclosure on an entry permit as provided in AS 16.10.335 or the
16 termination of a debtor's interest in an entry permit under AS 16.10.335(g), the
17 commissioner shall offer the **commercial fisheries entry division of the Department**
18 **of Fish and Game** [COMMISSION] a right of first refusal if the permit is subject to a
19 buy-back program under AS 16.43.290 - 16.43.330 at a price equal to the amount
20 outstanding on the note plus any costs the department directly incurred in
21 administering the loan.

22 * **Sec. 15.** AS 16.10.337(b) is amended to read:

23 (b) If the **commercial fisheries entry division of the Department of Fish**
24 **and Game** [COMMISSION] does not exercise its right of first refusal within 30 days
25 after it receives the offer, or if the permit is not subject to a buy-back program under
26 AS 16.43.290 - 16.43.330, the department shall advertise and sell the permit. If the
27 proceeds of the sale of a permit exceed the amount necessary to pay the note in full,
28 plus penalties, costs of administration of the note, attorney fees, and child support
29 liens of which the department has notice, the excess shall be transferred by the
30 commissioner to the debtor. At any time until the permit has been sold under this
31 subsection, the debtor may repurchase the permit by paying the department the amount

1 necessary to pay the note in full, plus penalties, costs of administration of the note, and
 2 attorney fees, as determined by the commissioner.

3 * **Sec. 16.** AS 16.10.360(4) is amended to read:

4 (4) "department" means the Department of Commerce, Community,
 5 and Economic Development unless specifically provided otherwise;

6 * **Sec. 17.** AS 16.40.250 is amended to read:

7 **Sec. 16.40.250. Salmon fishery associations.** The commissioner may assist in
 8 and encourage the formation of qualified salmon fishery associations for the purpose
 9 of promoting the consolidation of the fishing fleet in a salmon fishery for which the
 10 commercial fisheries entry division of the department [ALASKA COMMERCIAL
 11 FISHERIES ENTRY COMMISSION] has issued commercial fishing entry permits
 12 under AS 16.43. A salmon fishery association is qualified if the commissioner
 13 determines that the regional association

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

15 (2) is made up [COMPRISED] of interim-use permit and entry permit
 16 holders in the salmon fishery for which the association is established; and

17 (3) has a board of directors that is made up [COMPRISED] of
 18 interim-use permit and entry permit holders in the salmon fishery.

19 * **Sec. 18.** AS 16.43 is amended by adding a new section to read:

20 **Sec. 16.43.015. Commercial fisheries entry division.** (a) The commercial
 21 fisheries entry division is established as a regulatory and quasi-judicial division of the
 22 department.

23 (b) The commissioner shall appoint the director of the commercial fisheries
 24 entry division.

25 * **Sec. 19.** AS 16.43.100 is amended to read:

26 **Sec. 16.43.100. Duties and general powers.** (a) To accomplish the purposes
 27 set out in AS 16.43.010, the department [COMMISSION] shall

28 (1) regulate entry into the commercial fisheries for all fishery resources
 29 in the state;

30 (2) establish priorities for the application of the provisions of this
 31 chapter to the various commercial fisheries of the state;

1 (3) establish administrative areas suitable for regulating and
2 controlling entry into the commercial fisheries;

3 (4) establish, for all types of gear, the maximum number of entry
4 permits for each administrative area;

5 (5) designate, when necessary to accomplish the purposes of this
6 chapter, particular species for which separate interim-use permits or entry permits will
7 be issued;

8 (6) establish qualifications for the issuance of entry permits;

9 (7) issue entry permits to qualified applicants;

10 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
11 and 16.43.225;

12 (9) establish, for all types of gear, the optimum number of entry
13 permits for each administrative area;

14 (10) administer the buy-back program provided for in AS 16.43.310
15 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
16 number of entry permits;

17 (11) provide for the transfer and reissuance of entry permits to
18 qualified transferees;

19 (12) provide for the transfer and reissuance of entry permits for
20 alternative types of legal gear, in a manner consistent with the purposes of this
21 chapter;

22 (13) establish and administer the collection of the annual fees provided
23 for in AS 16.43.160;

24 (14) administer the issuance of commercial fishing vessel licenses
25 under AS 16.05.490;

26 (15) issue educational entry permits to applicants who qualify under
27 the provisions of AS 16.43.340 - 16.43.390;

28 (16) establish reasonable user fees for services;

29 (17) issue landing permits under AS 16.05.675 and regulations adopted
30 under that section;

31 (18) establish and collect annual fees for the issuance of landing

1 permits that reasonably reflect the costs incurred in the administration and
2 enforcement of provisions of law related to landing permits;

3 (19) establish a moratorium on entry into commercial fisheries as
4 provided in AS 16.43.225; and

5 (20) [REPEALED

6 (21)] when requested by a regional development organization formed
7 under AS 44.33.895, provide to the organization, without charge, public information
8 contained in the department's [COMMISSION'S] data with respect to relevant
9 fisheries, including limited fisheries, fishery participants, and limited entry permit
10 holders' harvests and earnings.

11 (b) The department [COMMISSION] may do all things necessary to the
12 exercise of its powers under this chapter, whether or not specifically designated in this
13 chapter.

14 * **Sec. 20.** AS 16.43.110 is repealed and reenacted to read:

15 **Sec. 16.43.110. Regulations and hearing procedures.** (a) The department
16 may adopt regulations, consistent with law, necessary or proper in the exercise of its
17 powers or for the performance of its duties under this chapter.

18 (b) The department shall adopt regulations, consistent with due process of law,
19 that govern practice and procedure and the conduct of all investigations, hearings, and
20 proceedings. Adjudicatory proceedings required under this chapter shall be conducted
21 by the office of administrative hearings (AS 44.64).

22 (c) The Alaska Rules of Evidence apply to investigations, hearings, and
23 proceedings before the department or the office of administrative hearings under this
24 chapter except when the department determines that their application is not required in
25 order to ensure fair treatment of all parties and that the evidence is relevant and of the
26 sort on which responsible persons are accustomed to rely in the conduct of serious
27 matters.

28 (d) The department, the office of administrative hearings, or an employee
29 authorized by the department or office of administrative hearings may administer
30 oaths, certify to all official acts, and issue subpoenas and other process to compel the
31 attendance of witnesses and the production of testimony, records, papers, accounts,

1 and documents in an inquiry, investigation, hearing, or proceeding before the
 2 department or office of administrative hearings in any part of the state. The
 3 department or office of administrative hearings may petition a court to enforce its
 4 subpoenas or other process.

5 (e) The department shall adopt regulations to provide for the correction of
 6 administrative error.

7 * **Sec. 21.** AS 16.43.120 is amended to read:

8 **Sec. 16.43.120. Application of Administrative Procedure Act.** (a) The
 9 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)
 10 do not apply to adjudicatory proceedings of the **office of administrative hearings**
 11 **(AS 44.64) held under this chapter** [COMMISSION] except that final administrative
 12 determinations by the **office of administrative hearings or the department under**
 13 **this chapter** [COMMISSION] are subject to judicial review as provided in
 14 AS 44.62.560 - 44.62.570.

15 (b) AS 44.62.010 - 44.62.320 and 44.62.640 apply to regulations adopted by
 16 the **department under this chapter** [COMMISSION].

17 * **Sec. 22.** AS 16.43.140(a) is amended to read:

18 (a) A [AFTER JANUARY 1, 1974, A] person may not operate gear in the
 19 commercial taking of fishery resources without a valid entry permit or a valid interim-
 20 use permit issued by the **department** [COMMISSION].

21 * **Sec. 23.** AS 16.43.140(c) is amended to read:

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

- 24 (1) fishing more than one type of gear;
- 25 (2) fishing in more than one administrative area;
- 26 (3) harvesting particular species for which separate interim-use or
 27 entry permits are issued;
- 28 (4) if authorized by regulations of the **department** [COMMISSION],
 29 fishing an entire unit of gear in a fishery in which the **department** [COMMISSION]
 30 has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this
 31 paragraph, a person may not hold more than two entry permits for a fishery; however,

1 the person may not

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

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

6 (5) consolidation of the fishing fleet for a salmon fishery; however, a
7 person may hold not more than two entry permits for a salmon fishery under this
8 paragraph, but the person who holds two entry permits for a salmon fishery may not
9 engage in fishing under the second entry permit.

10 * **Sec. 24.** AS 16.43.150(d) is amended to read:

11 (d) Failure to renew an entry permit for a period of two years from the year of
12 last renewal results in a forfeiture of the entry permit to the **department**
13 [COMMISSION], except as waived by the **department** [COMMISSION] for good
14 cause. An entry permit may not be renewed until the fees for each preceding year
15 during which the entry permit was not renewed are paid. However, failure to renew an
16 entry permit in a year in which there is an administrative closure for the entire season
17 for a specific fishery is good cause not to renew the entry permit. The **department**
18 [COMMISSION] shall waive the payment of fees for that year.

19 * **Sec. 25.** AS 16.43.150(h) is amended to read:

20 (h) Unless an entry permit holder has expressed a contrary intent in a will that
21 is probated, the **department** [COMMISSION] shall, upon the death of the permit
22 holder, transfer the permanent permit by right of survivorship directly to the surviving
23 spouse or, if no spouse survives, to a natural person designated by the permit holder on
24 a form provided by the **department** [COMMISSION]. If no spouse survives and if the
25 person designated on the form, if any, does not survive, the permit passes as part of the
26 permit holder's estate. A designation under this subsection must be acknowledged
27 before a person authorized to administer an oath under AS 09.63.010 or must be
28 witnessed by two persons who are qualified under AS 13.12.505 to witness the will of
29 the permit holder. Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.215, and
30 44.81.231 - 44.81.250, the permit is exempt from the claims of creditors of the estate.

31 * **Sec. 26.** AS 16.43.150(i) is amended to read:

1 (i) The holder of a transferable or nontransferable entry permit or of an
2 interim-use permit may voluntarily relinquish the permit to the **department**
3 [COMMISSION].

4 * **Sec. 27.** AS 16.43.160(a) is amended to read:

5 (a) Except as specifically provided in this section, the **department**
6 [COMMISSION] shall establish annual fees for the issuance and annual renewal of
7 entry permits or interim-use permits.

8 * **Sec. 28.** AS 16.43.160(b) is amended to read:

9 (b) The **department** [COMMISSION] may charge interest at a rate not to
10 exceed the legal rate of interest established in AS 45.45.010 on fees more than 60 days
11 overdue.

12 * **Sec. 29.** AS 16.43.160(c) is amended to read:

13 (c) For an entry permit or an interim-use permit issued or renewed for
14 calendar year 2006 and following years, the annual base fee for issuance or renewal of
15 an entry permit or an interim-use permit may not be less than \$30 or more than
16 \$3,000. The annual base fee must reasonably reflect the different rates of economic
17 return for different fisheries. In addition to the annual base fee established by the
18 **department** [COMMISSION] under this subsection, a nonresident shall pay an annual
19 nonresident surcharge for the issuance or renewal of one or more entry permits or
20 interim-use permits. The **department** [COMMISSION] shall establish the annual
21 nonresident surcharge by regulation at an amount that is as close as is practicable to
22 the maximum allowed by law.

23 * **Sec. 30.** AS 16.43.170(a) is amended to read:

24 (a) Except as provided in AS 16.10.333 - 16.10.338 and in AS 44.81.231 -
25 44.81.250, entry permits and interim-use permits are transferable only through the
26 **department** [COMMISSION] as provided in this section and AS 16.43.180 and under
27 regulations adopted by the **department** [COMMISSION]. An involuntary transfer of
28 an entry permit in a manner inconsistent with the statutes of this state and the
29 regulations of the **department** [COMMISSION] is void.

30 * **Sec. 31.** AS 16.43.170(b) is amended to read:

31 (b) Except as provided in (e) of this section, the holder of an entry permit may

1 transfer the permit to another person or to the **department** [COMMISSION] upon 60
 2 **days'** [DAYS] notice of intent to transfer under regulations adopted by the
 3 **department. Not** [COMMISSION. NO] sooner than 60 days nor later than 12 months
 4 from the date of notice to the **department** [COMMISSION], the holder of an entry
 5 permit may transfer the permit. If the proposed transferee, other than the **department**
 6 [COMMISSION], can demonstrate the present ability to participate actively in the
 7 fishery and the transfer does not violate any provision of this chapter or regulations
 8 adopted under this chapter, and if a certificate for the permit under AS 16.10.333(b)(1)
 9 - (2), 16.10.338, or AS 44.81.231(a) is not in effect, the **department** [COMMISSION]
 10 shall approve the transfer and reissue the entry permit to the transferee **if** [PROVIDED
 11 **THAT**] neither party is prohibited by law from participating in the transfer.

12 * **Sec. 32.** AS 16.43.170(g) is amended to read:

13 (g) A person may request the **department** [COMMISSION] to transfer an
 14 entry permit due to an execution on a permit holder's interest in that permit if the
 15 execution is to enforce a lien recorded with the **department** [COMMISSION] under
 16 AS 25.27.230(c). The request shall be made in the form and manner provided in this
 17 chapter and regulations adopted under this chapter. The **department** [COMMISSION]
 18 may deny a request for transfer of an entry permit due to an execution of a holder's
 19 interest in that permit if

20 (1) the execution does not comply with legal requirements or otherwise
 21 is not valid;

22 (2) the transfer violates this chapter or regulations adopted under this
 23 chapter;

24 (3) the proposed transferee or other party to the transfer is prohibited
 25 by law from participating in the transaction;

26 (4) a certificate for the permit under AS 16.10.333(b)(1) - (2),
 27 16.10.338, or AS 44.81.231(a) is in effect at the time of the proposed transfer;

28 (5) the proposed transferee of the entry permit, other than the
 29 **department** [COMMISSION], cannot demonstrate the present ability to actively
 30 participate in the fishery; or

31 (6) the holder of the entry permit as shown by the records of the

1 **department** [COMMISSION] demonstrates, under regulations adopted by the
2 **department** [COMMISSION], that the entry permit is a necessary means of support
3 for the holder and those dependent **on** [UPON] the holder.

4 * **Sec. 33.** AS 16.43.170(h) is amended to read:

5 (h) Notwithstanding (g) of this section, the **department** [COMMISSION]
6 may not approve a request for transfer of an entry permit after an execution sale unless
7 the parties to the transfer offer the **department** [COMMISSION] a right to purchase
8 the permit at the same price and on the same terms as those of that execution sale. If
9 the **department** [COMMISSION] exercises its right to purchase the permit, the permit
10 then shall be transferred to the **department** [COMMISSION].

11 * **Sec. 34.** AS 16.43.180 is amended to read:

12 **Sec. 16.43.180. Emergency transfers.** (a) The **department** [COMMISSION]
13 shall adopt regulations providing for the temporary emergency transfer of entry
14 permits and interim-use permits when illness, disability, death, required military or
15 government service, or other unavoidable hardship prevents the permit holder from
16 participating in the fishery. To alleviate hardship pending a final determination of the
17 permit holder's eligibility for an entry permit, the **department** [COMMISSION] shall
18 adopt regulations providing for the temporary emergency transfer of an interim-use
19 permit issued under AS 16.43.210(b) or 16.43.225.

20 (b) The **department** [COMMISSION] shall adopt regulations providing for
21 the temporary transfer of an entry permit upon the death of the permittee pending final
22 disposition of the permit as a part of the permittee's estate.

23 * **Sec. 35.** AS 16.43.200 is amended to read:

24 **Sec. 16.43.200. Administrative areas.** (a) The **department** [COMMISSION]
25 shall establish administrative areas suitable for regulating and controlling entry into
26 the commercial fisheries. The **department** [COMMISSION] shall make the
27 administrative areas reasonably compatible with the geographic areas for which
28 specific commercial fishing regulations are adopted by the Board of Fisheries.

29 (b) The **department** [COMMISSION] may modify or change the boundaries
30 of administrative areas when necessary and consistent with the purposes of this
31 chapter.

1 * **Sec. 36.** AS 16.43.210(a) is amended to read:

2 (a) For each fishery that is not subject to a maximum number of entry permits
3 under AS 16.43.240 and not subject to a moratorium under AS 16.43.225, the
4 **department** [COMMISSION] shall issue interim-use permits under regulations
5 adopted by the **department** [COMMISSION] to all applicants who can establish their
6 present ability to participate actively in the fishery for which they are making
7 application.

8 * **Sec. 37.** AS 16.43.210(b) is amended to read:

9 (b) Before the issuance of the maximum number of entry permits for a given
10 fishery, the **department** [COMMISSION] may issue an interim-use permit to an
11 applicant who may later become eligible for an entry permit under AS 16.43.270.

12 * **Sec. 38.** AS 16.43.210(c) is amended to read:

13 (c) To the extent **authorized by** [THAT] the commissioner [OF FISH AND
14 GAME AUTHORIZES IT] under AS 16.05.050(a)(9), the **department**
15 [COMMISSION] may grant an interim-use permit to a person to engage in the
16 commercial taking from a fishery on an experimental basis.

17 * **Sec. 39.** AS 16.43.220(a) is amended to read:

18 (a) The **department** [COMMISSION] shall adopt regulations specifying the
19 dates and places of application, the procedures to be followed in renewal of the
20 interim-use permit including the time, place of its renewal, and for any other purpose
21 incident to the administration of interim-use permits for that fishery. An interim-use
22 permit shall expire upon the final determination of the holder's eligibility for an entry
23 permit.

24 * **Sec. 40.** AS 16.43.225 is amended to read:

25 **Sec. 16.43.225. Moratorium on new entrants into certain fisheries.** (a)

26 Subject to (b) of this section, the **department** [COMMISSION] may establish a
27 moratorium on new entrants into a fishery

28 (1) that has experienced recent increases in fishing effort that are
29 beyond a low, sporadic level of effort;

30 (2) that has achieved a level of harvest that may be approaching or
31 exceeding the maximum sustainable level for the fishery; and

1 (3) for which there is insufficient biological and resource management
2 information necessary to promote the conservation and sustained yield management of
3 the fishery.

4 (b) The **department** [COMMISSION] may establish a moratorium on new
5 entrants into a fishery described in (a) of this section if

6 (1) the commissioner [OF FISH AND GAME], subject to
7 AS 16.05.251(g), **imposes** [PETITIONS THE COMMISSION UNDER AS 44.62.220
8 TO ESTABLISH] a moratorium on new entrants into the fishery; and

9 (2) the **department** [COMMISSION] finds that

10 (A) the fishery has reached a level of participation that may
11 threaten the conservation and the sustained yield management of the fishery
12 resource and the economic health and stability of commercial fishing; and

13 (B) the **department** [COMMISSION] has insufficient
14 information to conclude that the establishment of a maximum number of entry
15 permits under AS 16.43.240 would further the purposes of this chapter.

16 (c) The **department** [COMMISSION] may establish a moratorium under this
17 section for a continuous period of up to four years. A fishery that has been subject to a
18 moratorium under this section may not be subjected to a subsequent moratorium under
19 this section unless five years have elapsed since the previous moratorium expired.

20 (d) While a moratorium is in effect, the **department** [COMMISSION] shall
21 conduct investigations to determine whether a maximum number of entry permits
22 should be established under AS 16.43.240 by

23 (1) conducting research into conditions in the fishery;

24 (2) consulting with the [DEPARTMENT OF FISH AND GAME AND
25 THE] Board of Fisheries; and

26 (3) consulting with participants in the fishery.

27 (e) The **department** [COMMISSION] shall establish by regulation the
28 qualifications for applicants for an interim-use permit for a fishery subject to a
29 moratorium under this section. The qualifications must include the minimum
30 requirements for past or present participation and harvest in the fishery. The
31 **department** [COMMISSION] may not issue an interim-use permit for a fishery

1 subject to a moratorium under this section unless the applicant can satisfy the
 2 qualifications established under this subsection and establish the present ability and
 3 intent to participate actively in the fishery.

4 * **Sec. 41.** AS 16.43.227(a) is amended to read:

5 (a) The **department** [COMMISSION] may establish a moratorium on new
 6 entrants into the southeast Alaska Dungeness crab fishery for a continuous period of
 7 up to four years without complying with AS 16.43.225(a) - (c). While the moratorium
 8 is in effect, the **department** [COMMISSION] shall

9 (1) conduct the investigation required under AS 16.43.225(d);

10 (2) establish by regulation the qualifications for an interim-use permit
 11 for the fishery, including minimum requirements for past or present participation and
 12 harvest in the fishery; and

13 (3) issue interim-use permits for the fishery to applicants who satisfy
 14 the qualifications established under (2) of this subsection and who establish the
 15 present ability and intent to participate actively in the fishery.

16 * **Sec. 42.** AS 16.43.228(e) is amended to read:

17 (e) During the four years that a moratorium established by this section is in
 18 effect, the **department** [COMMISSION] shall

19 (1) issue interim-use permits for each fishery subject to (a) - (d) of this
 20 section to applicants who satisfy the appropriate qualifications established under (a) -
 21 (d) of this section and who establish the present ability and intent to participate
 22 actively in the fishery;

23 (2) conduct investigations to determine whether a maximum number of
 24 entry permits should be established under AS 16.43.240 for each fishery subject to this
 25 section by

26 (A) conducting research into conditions in the fishery;

27 (B) consulting with the [DEPARTMENT OF FISH AND
 28 GAME AND THE] Board of Fisheries; and

29 (C) consulting with participants in the fishery; and

30 (3) [IN COOPERATION WITH THE DEPARTMENT OF FISH AND
 31 GAME,] conduct investigations to determine whether an alternative form of a

1 nontransferable limited entry or other management program is appropriate for a
2 fishery subject to this section.

3 * **Sec. 43.** AS 16.43.228(g) is amended to read:

4 (g) The **department** [COMMISSION] may not consider participation in a
5 fishery, subject to a moratorium on entry under this section, that occurs during the
6 period of the moratorium in determining eligibility for an entry permit that may be
7 issued for the fishery after termination of the moratorium.

8 * **Sec. 44.** AS 16.43.230 is amended to read:

9 **Sec. 16.43.230. Designation of distressed fisheries.** Pending the
10 determination of maximum numbers of entry permits under AS 16.43.240 and before
11 the initial issue of entry permits under AS 16.43.270, the **department**
12 [COMMISSION] shall designate as distressed fisheries those for which it estimates
13 that the optimum number of entry permits will be less than the highest number of units
14 of gear fished in that fishery during any one of the four years immediately preceding
15 January 1, 1973.

16 * **Sec. 45.** AS 16.43.240(b) is amended to read:

17 (b) When the **department** [COMMISSION] finds that a fishery, not
18 designated as a distressed fishery under AS 16.43.230 or not subject to a moratorium
19 under AS 16.43.225, has reached levels of participation that require the limitation of
20 entry under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter,
21 the **department** [COMMISSION] shall establish the maximum number of entry
22 permits for that fishery.

23 * **Sec. 46.** AS 16.43.240(c) is amended to read:

24 (c) When the **department** [COMMISSION] finds that a fishery subject to a
25 moratorium under AS 16.43.225 has reached levels of participation that require the
26 limitation of entry under AS 16.43.140 - 16.43.330 in order to achieve the purposes of
27 this chapter, the **department** [COMMISSION] shall establish the maximum number
28 of entry permits for that fishery.

29 * **Sec. 47.** AS 16.43.250 is amended to read:

30 **Sec. 16.43.250. Standards for initial issue of entry permits.** (a) Following
31 the establishment of the maximum number of units of gear for a particular fishery

1 under AS 16.43.240, the **department** [COMMISSION] shall adopt regulations
2 establishing qualifications for ranking applicants for entry permits according to the
3 degree of hardship that they would suffer by exclusion from the fishery. The
4 regulations shall define priority classifications of similarly situated applicants based
5 **on** [UPON] a reasonable balance of the following hardship standards:

6 (1) degree of economic dependence **on** [UPON] the fishery, including,
7 when reasonable for the fishery, the percentage of income derived from the fishery,
8 reliance on alternative occupations, availability of alternative occupations, **and**
9 investment in vessels and gear;

10 (2) extent of past participation in the fishery, including, when
11 reasonable for the fishery, the number of years of participation in the fishery, and the
12 consistency of participation during each year.

13 (b) The **department** [COMMISSION] shall designate in the regulations those
14 priority classifications of applicants who would suffer significant economic hardship
15 by exclusion from the fishery.

16 (c) The **department** [COMMISSION] shall designate in the regulations those
17 priority classifications of applicants who would suffer only minor economic hardship
18 by exclusion from the fishery.

19 (d) If an individual eligible to apply under AS 16.43.260(a) has applied during
20 application periods established under AS 16.43.260(b) for two or more entry permits
21 under AS 16.43.260(d) or (e) for the same specific fishery resource and the same
22 specific type of gear in different administrative areas, but has failed to qualify for an
23 entry permit for that type of fishery resource and gear, the individual's cumulative
24 qualifications may be credited to the fishery for which the individual is most qualified.
25 The **department** [COMMISSION] shall issue an entry permit to the individual for the
26 fishery if the individual's cumulative qualifications result in placing the individual in a
27 category designated in (b) of this section. The qualifications credited to a fishery under
28 this subsection may not be considered for the purpose of ranking the applicant under
29 (a) - (c) of this section for any other fishery. The **department** [COMMISSION] may
30 not revoke any permit previously issued notwithstanding the issuance of permits in
31 excess of the maximum number established under AS 16.43.230 - 16.43.240 as a

1 result of this subsection. In this subsection, "fishery" includes all salmon fisheries of
 2 the state for which a maximum number of entry permits has been established by the
 3 **department** [COMMISSION] under AS 16.43.240(b).

4 (e) If the cumulative qualifications of an individual under (d) of this section
 5 include points granted by the **department** [COMMISSION] under (a) of this section
 6 for more than one fishery and the number of points required to place an applicant in
 7 the priority classification under (b) of this section is not the same for each of the
 8 fisheries, the **department** [COMMISSION] shall obtain a quotient for the individual
 9 by dividing the number of points the individual has been granted for each fishery by
 10 the number of points needed to place an applicant in a priority classification under (b)
 11 of this section for that fishery. If the sum of the quotients obtained under this
 12 subsection equals or exceeds 1.00, the individual is entitled to a permit under (d) of
 13 this section.

14 * **Sec. 48.** AS 16.43.260(a) is amended to read:

15 (a) The **department** [COMMISSION] shall accept applications for entry
 16 permits only from applicants who have harvested fishery resources commercially
 17 while participating in the fishery as holders of gear licenses issued under former
 18 AS 16.05.536 - 16.05.670 or interim-use permits under AS 16.43.210(a) or 16.43.225
 19 before the qualification date established in (d), (e), or (f) of this section. The
 20 **department** [COMMISSION] may specify by regulation the calendar years of
 21 participation that will be considered for eligibility purposes.

22 * **Sec. 49.** AS 16.43.260(b) is amended to read:

23 (b) The **department** [COMMISSION] shall establish the opening and closing
 24 dates, places, and form of application for entry permits for each fishery. The
 25 **department** [COMMISSION] may require the submission of specific verified
 26 evidence establishing the applicant's qualifications under the regulations adopted
 27 under AS 16.43.250.

28 * **Sec. 50.** AS 16.43.260(c) is amended to read:

29 (c) When an applicant is unable to establish qualifications for an entry permit
 30 by submitting the specific verified evidence required in the application by the
 31 **department** [COMMISSION], the applicant may request and obtain an administrative

1 adjudication of the application according to the procedures established in
2 AS 16.43.110(b). At the hearing the applicant may present alternative evidence of
3 qualifications for an entry permit.

4 * **Sec. 51.** AS 16.43.260(e) is amended to read:

5 (e) Except as provided in (f) of this section, when the **department**
6 [COMMISSION] establishes the maximum number of entry permits for a particular
7 fishery under AS 16.43.240 [AFTER JANUARY 1, 1975], an applicant shall be
8 assigned to a priority classification based solely **on** [UPON] the applicant's
9 qualifications as of January 1 of the year during which the **department**
10 [COMMISSION] establishes the maximum number of entry permits for the fishery for
11 which application is made.

12 * **Sec. 52.** AS 16.43.260(f) is amended to read:

13 (f) When the **department** [COMMISSION] establishes the maximum number
14 of entry permits under AS 16.43.240 for a fishery that is subject to a moratorium under
15 AS 16.43.225, an applicant for an entry permit for the fishery shall be assigned to a
16 priority classification based solely **on** [UPON] the applicant's qualifications as of the
17 effective date of the statute or regulation establishing the moratorium.

18 * **Sec. 53.** AS 16.43.270(a) is amended to read:

19 (a) The **department** [COMMISSION] shall issue entry permits, for each
20 fishery, first to all qualified applicants in the priority classifications designated under
21 AS 16.43.250(b) and then to qualified applicants in order of descending priority
22 classification, until the number of entry permits issued equals the maximum number of
23 entry permits established under AS 16.43.230 and 16.43.240 for each fishery, except
24 that a person within a priority classification specified under AS 16.43.250(b) may not
25 be denied an entry permit.

26 * **Sec. 54.** AS 16.43.270(b) is amended to read:

27 (b) If, within the lowest priority classification of qualified applicants to which
28 some entry permits may be issued, there are more applicants than there are entry
29 permits to be issued, then the allocation of entry permits within that priority
30 classification shall be by lottery. However, the **department** [COMMISSION] shall
31 issue entry permits to all qualified applicants in that priority classification if the total

1 number of permits issued for the fishery does not exceed the maximum number of
2 entry permits established under AS 16.43.240 for that fishery by more than five
3 percent or 10 permits, whichever is greater.

4 * **Sec. 55.** AS 16.43.270(d) is amended to read:

5 (d) The **department** [COMMISSION] may restrict the fishing capacity
6 employed under an entry permit if, before the initial issuance of entry permits for a
7 fishery, the **department** [COMMISSION] determines that the fishing capacity in the
8 fishery must be limited to achieve the purposes of this chapter, establishes criteria for
9 determining the fishing capacity that is allowed under an entry permit, and establishes
10 how fishing capacity will be measured. The maximum fishing capacity allowed under
11 an entry permit must be based **on** [UPON] past participation in the fishery by the
12 initial recipient of the entry permit during a period, specified by the **department**
13 [COMMISSION], preceding the qualification date established under AS 16.43.260.
14 The **department** [COMMISSION] may define fishing capacity in terms of quantity of
15 fishing gear, a proportion of the maximum amount of gear that can be utilized in the
16 fishery under regulations of the Board of Fisheries, fishing vessel size or other
17 characteristics, or other factors determined by the **department** [COMMISSION] to
18 affect the amount of fishing effort in the fishery. The recipient or transferee of an entry
19 permit issued subject to this subsection may not exceed the fishing capacity allowed
20 under the entry permit.

21 * **Sec. 56.** AS 16.43.290 is amended to read:

22 **Sec. 16.43.290. Optimum number of entry permits.** Following the issuance
23 of entry permits under AS 16.43.270, the **department** [COMMISSION] shall
24 establish the optimum number of entry permits for each fishery based **on** [UPON] a
25 reasonable balance of the following general standards:

26 (1) the number of entry permits sufficient to maintain an economically
27 healthy fishery that will result in a reasonable average rate of economic return to the
28 fishermen participating in that fishery, considering time fished and necessary
29 investments in vessels and gear;

30 (2) the number of entry permits necessary to harvest the allowable
31 commercial take of the fishery resource during all years in an orderly, efficient

1 manner, and consistent with sound fishery management techniques;

2 (3) the number of entry permits sufficient to avoid serious economic
3 hardship to those currently engaged in the fishery, considering other economic
4 opportunities reasonably available to them.

5 * **Sec. 57.** AS 16.43.300 is amended to read:

6 **Sec. 16.43.300. Revisions of optimum number of entry permits.** (a) The
7 department [COMMISSION] may increase or decrease the optimum number of entry
8 permits for a fishery when one or more of the following conditions makes a change
9 desirable considering the purposes of this chapter:

10 (1) an established long-term change in the biological condition of the
11 fishery has occurred that substantially alters the optimum number of entry permits
12 permissible applying the standards set out in AS 16.43.290;

13 (2) an established long-term change in market conditions has occurred,
14 directly affecting the fishery, that substantially alters the optimum number of entry
15 permits permissible under the standards set out in AS 16.43.290.

16 (b) If the department [COMMISSION] decreases the optimum number of
17 entry permits for a fishery, the number of entry permits may be reduced only under the
18 voluntary buy-back provisions set out in AS 16.43.310 and 16.43.320.

19 * **Sec. 58.** AS 16.43.310 is amended to read:

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

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

31 (c) The department [COMMISSION] shall expend money appropriated to a

1 buy-back fund for the purpose of reducing the number of entry permits in the fishery
 2 to the optimum number, at a rate to be established by the **department**
 3 **[COMMISSION]**. The legislature may appropriate interest accrued on the money in a
 4 buy-back fund to that fund. Except as provided in AS 16.43.320, money appropriated
 5 to a buy-back fund does not lapse.

6 * **Sec. 59.** AS 16.43.320 is amended to read:

7 **Sec. 16.43.320. Administration of the buy-back program.** The **department**
 8 **[COMMISSION]** shall adopt regulations providing for the purchase of transferable
 9 entry permits with money in the buy-back fund for each fishery. The **department**
 10 **[COMMISSION]** shall cease purchases of entry permits in a fishery when the number
 11 of entry permits in the fishery has been reduced to the optimum number. The
 12 **department** **[COMMISSION]** shall terminate a buy-back assessment established for a
 13 fishery under AS 16.43.310(b) when the **department** **[COMMISSION]** determines
 14 that the amount of revenue collected through the assessment is sufficient to purchase
 15 the number of entry permits necessary to achieve the optimum number of entry
 16 permits in the fishery and to offset the reasonable costs of the buy-back program for
 17 the fishery, including repayment of any debt the **department** **[COMMISSION]** was
 18 authorized to incur to capitalize the buy-back fund for the fishery. The unexpended
 19 balance of appropriations made to a buy-back fund for a fishery shall lapse back into
 20 the fund from which the money was appropriated at the end of the fiscal year in which
 21 the buy-back program is terminated.

22 * **Sec. 60.** AS 16.43.330(a) is amended to read:

23 (a) When the number of outstanding entry permits for a fishery is less than the
 24 optimum number established under AS 16.43.290, the **department** **[COMMISSION]**
 25 shall issue new entry permits to applicants who are presently able to engage actively in
 26 the fishery until the optimum number is reached.

27 * **Sec. 61.** AS 16.43.330(b) is amended to read:

28 (b) The **department** **[COMMISSION]** shall determine equitable methods of
 29 issuance, as appropriate, under (a) of this section that assure the receipt of fair market
 30 value for the permits issued.

31 * **Sec. 62.** AS 16.43.340(a) is amended to read:

1 (a) In addition to entry permits and interim-use permits, the **department**
 2 [COMMISSION] may issue educational entry permits to public, private, or
 3 denominational educational institutions accredited by the Department of Education
 4 and Early Development or accredited institutions, career, or vocational programs
 5 approved by the Alaska Commission on Postsecondary Education, or full-time
 6 nonprofit residential child care facilities licensed by the Department of Health and
 7 Social Services, division of social services, if

8 (1) the program is offered to students at the junior high school level or
 9 above;

10 (2) the issuance of an educational entry permit is reasonably necessary
 11 to the instruction of students under courses offered by the applicant for the educational
 12 entry permit;

13 (3) the program is offered by an institution that is located in the state
 14 and has been in operation for at least two years; and

15 (4) the institution offering the program is not a correspondence
 16 institution.

17 * **Sec. 63.** AS 16.43.340(c) is amended to read:

18 (c) The **department** [COMMISSION] may issue educational entry permits
 19 notwithstanding the establishment of maximum or optimum numbers under
 20 AS 16.43.240 and 16.43.290.

21 * **Sec. 64.** AS 16.43.351(b) is amended to read:

22 (b) A recipient may be issued an educational entry permit valid for designated
 23 fisheries in the administrative area the **department** [COMMISSION] determines to be
 24 appropriate, considering the nature of the educational program and the location of the
 25 educational or vocational institution. The recipient of an educational entry permit may
 26 not be issued an educational entry permit in more than one administrative area except
 27 as issued by the **department** [COMMISSION] in its discretion upon good cause
 28 shown.

29 * **Sec. 65.** AS 16.43.351(d) is amended to read:

30 (d) Annual fees for educational entry permits shall be as specified by
 31 **department** [COMMISSION] regulation under the authority of AS 16.43.160.

1 * **Sec. 66.** AS 16.43.371 is amended to read:

2 **Sec. 16.43.371. Accounting of harvest.** The recipient of an educational entry
3 permit shall report to the department [COMMISSION] costs and earnings, amount of
4 harvest, and other information the department [COMMISSION] requires to monitor
5 training programs of recipients of educational entry permits.

6 * **Sec. 67.** AS 16.43.381(b) is amended to read:

7 (b) The department [COMMISSION] shall adopt regulations relating to the
8 issuance of educational entry permits, establishing eligibility criteria for recipients of
9 the permits, and [SUCH] other matters as are reasonably necessary to implement
10 AS 16.43.340 - 16.43.390.

11 * **Sec. 68.** AS 16.43.400 is amended to read:

12 **Sec. 16.43.400. Special harvest area entry permits.** (a) In addition to entry
13 permits, interim-use permits, and educational permits, the department
14 [COMMISSION] may issue special harvest area entry permits to holders of private,
15 nonprofit hatchery permits issued by the department [DEPARTMENT OF FISH
16 AND GAME] under AS 16.10.400 - 16.10.475.

17 (b) The department [COMMISSION] may issue special harvest area entry
18 permits notwithstanding the establishment of maximum or optimum numbers under
19 AS 16.43.240 and 16.43.290.

20 * **Sec. 69.** AS 16.43.410(c) is amended to read:

21 (c) The annual fee for a special harvest area entry permit shall be specified by
22 department [COMMISSION] regulation under the authority of AS 16.43.160.

23 * **Sec. 70.** AS 16.43.440(b) is amended to read:

24 (b) The department [COMMISSION, AFTER CONSULTATION WITH
25 THE DEPARTMENT OF FISH AND GAME,] shall adopt regulations that are
26 reasonably necessary to implement AS 16.43.400 - 16.43.440.

27 * **Sec. 71.** AS 16.43.850(a) is amended to read:

28 (a) For the purpose of identifying frequent violators of commercial fishing
29 laws in salmon fisheries, the department [COMMISSION] shall adopt regulations
30 establishing a uniform system for the suspension of commercial salmon fishing
31 privileges by assigning demerit points for convictions for violations of commercial

1 fishing laws in salmon fisheries that are reported to the **department** [COMMISSION]
2 under AS 16.43.880. The **department** [COMMISSION] shall assess demerit points
3 against a permit holder for each violation of commercial fishing laws in a salmon
4 fishery in accordance with (b) and (c) of this section. The **department**
5 [COMMISSION] shall assess points against a permit holder for the salmon fishery in
6 which the violation of commercial fishing laws occurred.

7 * **Sec. 72.** AS 16.43.850(b) is amended to read:

8 (b) The **department** [COMMISSION] shall assess demerit points against a
9 permit holder for a conviction of a violation of commercial fishing laws in a salmon
10 fishery under AS 16.05.722, 16.05.723, 16.05.831; AS 16.10.055, 16.10.070 -
11 16.10.090, 16.10.100, 16.10.110, 16.10.120, 16.10.200 - 16.10.220, and 16.10.760 -
12 16.10.790 for the following violations in accordance with this schedule:

- 13 (1) fishing in closed waters 6 points;
- 14 (2) fishing during closed season or period 6 points;
- 15 (3) fishing with more than the legal amount of gear 4 points;
- 16 (4) fishing with gear not allowed in fishery 6 points;
- 17 (5) fishing before expiration of transfer period 6 points;
- 18 (6) interfering with commercial fishing gear 4 points;
- 19 (7) fishing with more than the legal amount of gear on vessel 4 points;
- 20 (8) improper operation of fishing gear 4 points;
- 21 (9) permit holder not present when required 4 points;
- 22 (10) fishing with underlength or overlength vessel 6 points;
- 23 (11) wanton waste of fishery resources 4 points.

24 * **Sec. 73.** AS 16.43.850(d) is amended to read:

25 (d) The **department** [COMMISSION] shall suspend a permit holder's
26 commercial salmon fishing privileges for a salmon fishery for a period of

27 (1) one year if the permit holder accumulates 12 or more points during
28 any consecutive 36-month period as a result of convictions for violations of
29 commercial fishing laws in the salmon fishery;

30 (2) two years if the permit holder accumulates 16 or more points
31 during any consecutive 36-month period as a result of convictions for violations of

1 commercial fishing laws in the salmon fishery;

2 (3) three years if the permit holder accumulates 18 or more points
3 during any consecutive 36-month period as a result of convictions for violations of
4 commercial fishing laws in the salmon fishery.

5 * **Sec. 74.** AS 16.43.855(c) is amended to read:

6 (c) The assessment of points against a permit holder by the **department**
7 [COMMISSION] under AS 16.43.850 - 16.43.895 is in addition to, and not in
8 substitution for, other provisions of this title and is not a substitute for any penalty
9 imposed by a court.

10 * **Sec. 75.** AS 16.43.855(d) is amended to read:

11 (d) If points are assessed against a permit holder who holds a commercial
12 fishing permit for a salmon fishery under an emergency transfer approved by the
13 **department** [COMMISSION] under AS 16.43.180, the same number of points shall
14 also be assessed against the transferor of the permit. Points assessed against the
15 transferor of the permit under this subsection shall be included in calculations made
16 under AS 16.43.850(d).

17 * **Sec. 76.** AS 16.43.860(a) is amended to read:

18 (a) A permit holder whose commercial salmon fishing privileges for a salmon
19 fishery are suspended under AS 16.43.850 - 16.43.895 may not obtain an entry permit
20 or interim-use permit for that salmon fishery during the period of the suspension of the
21 privileges. During the period for which the permit holder's privilege to obtain an entry
22 permit or interim-use permit for a salmon fishery is suspended under this section, the
23 **department** [COMMISSION] may not issue a permit card to the permit holder for
24 that fishery.

25 * **Sec. 77.** AS 16.43.860(c) is amended to read:

26 (c) If, during the period for which a permit holder's commercial fishing
27 privileges for a salmon fishery are suspended, the **department** [COMMISSION]
28 establishes a limited entry system for the salmon fishery, the permit holder shall be
29 eligible to obtain an entry permit for that fishery to the extent that the permit holder
30 qualifies for the entry permit under regulations adopted by the **department**
31 [COMMISSION]. If the permit holder qualifies for an entry permit for the fishery, the

1 department [COMMISSION] shall withhold issuance of the entry permit until the
2 period of the suspension imposed under AS 16.43.850 - 16.43.895 has expired.

3 * **Sec. 78.** AS 16.43.860(d) is amended to read:

4 (d) The department [COMMISSION] may not transfer a commercial fishing
5 permit for a salmon fishery under an emergency transfer under AS 16.43.180 if, at the
6 time of the application for the emergency transfer, the permit holder's commercial
7 salmon fishing privileges for the salmon fishery have been suspended.

8 * **Sec. 79.** AS 16.43.870 is amended to read:

9 **Sec. 16.43.870. Notice and appeal.** The department [COMMISSION] shall
10 provide notice of determinations of the department [COMMISSION] under
11 AS 16.43.850 - 16.43.895. Respondents may request a hearing under regulations
12 adopted by the department [COMMISSION] under AS 16.43.110.

13 * **Sec. 80.** AS 16.43.880(a) is amended to read:

14 (a) A court that convicts a person of a violation of commercial fishing laws
15 under this title or under a regulation adopted under this title in a salmon fishery shall
16 forward a record of the conviction to the department [COMMISSION] on a weekly
17 basis.

18 * **Sec. 81.** AS 16.43.955 is amended to read:

19 **Sec. 16.43.955. Hearings in proximity to Board of Fisheries meetings.**
20 When practicable, a department [COMMISSION] hearing that deals with the subject
21 of limiting entry to a fishery shall be held on the same dates on which, and in the same
22 building or in a building adjacent to the building in which, a Board of Fisheries
23 meeting is being held.

24 * **Sec. 82.** AS 16.43.960(a) is amended to read:

25 (a) The department [COMMISSION] may revoke, suspend, or transfer all
26 entry or interim-use permits held by a person who knowingly provides or assists in
27 providing false information, or fails to correct false information provided to the
28 department [COMMISSION] for the purpose of obtaining a benefit for self or
29 another, including the issuance, renewal, duplication, or transfer of an entry or
30 interim-use permit or vessel license. The department [COMMISSION] may suspend,
31 as appropriate, that person's eligibility to hold an entry or interim-use permit for a

1 period not to exceed three years, and may impose an administrative fine of not more
 2 than \$5,000 on the person. The **department** [COMMISSION] may also impose an
 3 administrative fine of not more than \$5,000 on an entity whose officers, employees,
 4 representatives, or agents knowingly provide or assist in providing false information,
 5 or fail to correct false information provided, to the **department** [COMMISSION] for
 6 the purpose of obtaining a benefit.

7 * **Sec. 83.** AS 16.43.960(b) is amended to read:

8 (b) The **department** [COMMISSION] shall serve the respondent personally
 9 or by certified or registered mail with a notice to show cause why the proposed action
 10 should not take place. The notice to show cause must

11 (1) be supported by an affidavit, which may be made on information or
 12 belief, setting out the facts that are the basis of the proposed actions;

13 (2) provide for a least 30 days' notice of the place, date, and time of the
 14 hearing where the respondent may present evidence in opposition to the proposed
 15 action; unless waived in writing by the respondent, the hearing shall be held within the
 16 judicial district in which the respondent resides if the respondent resides in the state;
 17 the hearing place shall be at the discretion of the **department** [COMMISSION] for
 18 those respondents residing outside the state;

19 (3) specify the statutes or regulations violated;

20 (4) state with particularity the action proposed to be taken;

21 (5) indicate to the respondent that the respondent's ability to
 22 permanently transfer the permits that are the subject of the show cause proceedings
 23 has been suspended as of the date of the notice and will continue to be suspended until
 24 the exhaustion of all administrative and judicial remedies; and

25 (6) provide other information the **department** [COMMISSION]
 26 considers proper.

27 * **Sec. 84.** AS 16.43.960(d) is amended to read:

28 (d) The show cause hearing shall be [CONDUCTED BEFORE A QUORUM
 29 OF COMMISSIONERS AND SHALL BE] presided over by a hearing officer
 30 appointed by the **office of administrative hearings** [COMMISSION] who shall rule
 31 on the presentation of evidence and other procedural matters. Hearings shall be

1 conducted in accordance with regulations adopted under AS 16.43.110(b).

2 * **Sec. 85.** AS 16.43.960(e) is amended to read:

3 (e) The failure of a respondent properly served under (b) of this section to
4 appear at the hearing is not grounds for setting aside any [COMMISSION] action
5 taken by the office of administrative hearings. However, the office of
6 administrative hearings [COMMISSION] may in its discretion order a continuance
7 or second hearing.

8 * **Sec. 86.** AS 16.43.960(g) is amended to read:

9 (g) The provisions of this section [APPLY TO CONDUCT OCCURRING
10 AFTER JANUARY 1, 1973, BUT] do not affect a permit held by a person who is a
11 bona fide purchaser. Failure to correct false information is a continuing offense.

12 * **Sec. 87.** AS 16.43.960(h) is amended to read:

13 (h) Judicial review of [COMMISSION] determinations made by the
14 department under this section is in accordance with AS 44.62.560 - 44.62.570;
15 however, if a hearing de novo is granted under AS 44.62.570(d), the hearing may, in
16 the discretion of the court, be had with a jury sitting if application for the jury hearing
17 is filed with the court not [NO] later than 10 days after service of the notice of appeal.

18 * **Sec. 88.** AS 16.43.960(i) is amended to read:

19 (i) An entry permit revoked by the department [COMMISSION] under this
20 section that is pledged as security for a loan under AS 16.10.333 or AS 44.81.231 shall
21 be reassigned or sold as provided in AS 16.10.337 or AS 44.81.250.

22 * **Sec. 89.** AS 16.43.960(j) is amended to read:

23 (j) The department [COMMISSION] shall immediately cancel a limited
24 entry permit card issued to a debtor under a loan made under AS 16.10.300 -
25 16.10.370 when the department [COMMISSION] receives a certificate of loan
26 termination containing a copy of the

27 (1) notice required by AS 16.10.335(a); or

28 (2) notice that, if the debtor has filed bankruptcy, the automatic stay
29 issued is no longer in effect and the debtor has not reaffirmed the debt.

30 * **Sec. 90.** AS 16.43.970(a) is amended to read:

31 (a) A person who violates a provision of this chapter or a regulation adopted

1 under this chapter is, upon conviction, guilty of a class B misdemeanor and is
2 punishable by a fine of not more than \$5,000 for a first conviction, and a fine of not
3 more than \$10,000 for a second or third conviction. Upon a first or second conviction
4 under this subsection, the court may in its discretion also order the **department**
5 [COMMISSION] to suspend the commercial fishing privileges of the person for a
6 period of not more than three years and to revoke one or more or all commercial
7 fishing permits held by the person. Upon a third or subsequent conviction under this
8 subsection, the person is also subject to a loss of commercial fishing privileges as
9 provided under (i) of this section. This subsection does not apply to violations of
10 AS 16.43.140(a).

11 * **Sec. 91.** AS 16.43.970(b) is amended to read:

12 (b) A person who knowingly makes a false statement to the **department**
13 [COMMISSION] for the purpose of obtaining a benefit, including the issuance,
14 renewal, duplication, or transfer of an entry or interim-use permit or vessel license or a
15 person who assists another by knowingly making a false statement to the **department**
16 [COMMISSION] for the purpose of obtaining a benefit for another, is guilty of the
17 crime of unsworn falsification in the second degree as set out in AS 11.56.210. Upon
18 conviction, the person is also subject to suspension of commercial fishing privileges
19 and revocation of commercial fishing permits under (i) of this section.

20 * **Sec. 92.** AS 16.43.970(e) is amended to read:

21 (e) Notwithstanding any other provision of this section, an interim-use or entry
22 permit may not be transferred while under suspension, without the consent of the
23 **department** [COMMISSION].

24 * **Sec. 93.** AS 16.43.970(i) is amended to read:

25 (i) Upon the conviction of a person for an offense described under (a), (b), or
26 (g) of this section, the court shall immediately notify the **department**
27 [COMMISSION] of the conviction. The notice provided by the court shall be
28 accompanied by an order suspending commercial fishing privileges and revoking
29 commercial fishing permits under (a) of this section, as appropriate. The **department**
30 [COMMISSION] shall, upon receipt of

31 (1) an order from the court under (a) of this section, suspend the

1 commercial fishing privileges of a person for the period set by the court and revoke
2 commercial fishing permits held by the person as directed by the court;

3 (2) a notice from the court that a person has been convicted of a third
4 or subsequent violation of (a) of this section, suspend all commercial fishing privileges
5 of the person for a period of three years from the date of conviction and revoke all
6 commercial fishing permits held by the person;

7 (3) a notice from the court that a person has been convicted of a
8 violation described under (b) of this section, suspend all commercial fishing privileges
9 of the person for a period of three years from the date of conviction and revoke all
10 commercial fishing permits held by the person;

11 (4) a notice from the court that a person has been convicted of a
12 violation described under (g)(1) of this section, suspend all commercial fishing
13 privileges of the person for a period of one year from the date of conviction;

14 (5) a notice from the court that a person has been convicted of a
15 violation described under (g)(2) of this section, suspend all commercial fishing
16 privileges of the person for a period of two years from the date of conviction;

17 (6) a notice from the court that a person has been convicted of a
18 violation described under (g)(3) of this section, suspend all commercial fishing
19 privileges of the person for a period of five years from the date of conviction.

20 * **Sec. 94.** AS 16.43.975 is amended to read:

21 **Sec. 16.43.975. Public disclosure of certain documents prohibited.**

22 Documents submitted to the department [COMMISSION] containing information
23 relating to an individual's personal finances and information supplied by individuals
24 for research purposes, produced in response to requests by the department
25 [COMMISSION], are not subject to public disclosure.

26 * **Sec. 95.** AS 16.43.980(a) is amended to read:

27 (a) The department [COMMISSION] shall prepare an annual report and
28 notify the legislature that it is available. The report must include but not be limited to
29 the following:

30 (1) a progress report on the reduction of entry permits to optimum
31 levels;

1 (2) recommendations for additional legislation relating to the
2 regulation of entry of participants and vessels into Alaska commercial fisheries.

3 * **Sec. 96.** AS 16.43.990(1) is amended to read:

4 (1) "**commissioner**" ["COMMISSION"] means the **commissioner of**
5 **fish and game** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION];

6 * **Sec. 97.** AS 16.43.990(4) is amended to read:

7 (4) "fishery" means the commercial taking of a specific fishery
8 resource in a specific administrative area with a specific type of gear; however, the
9 **department** [COMMISSION] may designate a fishery to include more than one
10 specific administrative area, gear type, or fishery resource;

11 * **Sec. 98.** AS 16.43.990 is amended by adding a new paragraph to read:

12 (12) "department" means the Department of Fish and Game unless
13 specifically provided otherwise.

14 * **Sec. 99.** AS 25.27.230(c) is amended to read:

15 (c) The lien shall attach to all real and personal property of the obligor and be
16 effective on the date of recording of the lien with the recorder of the recording district
17 in which the property attached is located. A lien against earnings shall attach and be
18 effective upon filing with the recorder of the recording district in which the employer
19 does business or maintains an office or agent for the purpose of doing business. A lien
20 filed at the offices of the **Department of Fish and Game** [COMMERCIAL
21 FISHERIES ENTRY COMMISSION] in Juneau against a limited entry permit issued
22 under AS 16.43 is considered to have been filed against the permit in all recording
23 districts in which the permit holder uses the permit.

24 * **Sec. 100.** AS 37.05.146(c)(29) is amended to read:

25 (29) **the commercial fisheries entry division of the Department of**
26 **Fish and Game** [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION]
27 under AS 16.05.490, 16.05.530, and AS 16.43;

28 * **Sec. 101.** AS 43.76.015(f) is amended to read:

29 (f) In this section, "eligible interim-use permit and entry permit holder" means
30 an individual who, 90 days before the date ballots must be postmarked to be counted
31 in an election under this section, is listed in the records of the **commercial fisheries**

1 **entry division of the Department of Fish and Game** [ALASKA COMMERCIAL
 2 FISHERIES ENTRY COMMISSION] as the legal owner of an interim-use permit or
 3 an entry permit **that** [WHICH] authorizes the individual to fish commercially in an
 4 administrative area established [BY THE ALASKA COMMERCIAL FISHERIES
 5 ENTRY COMMISSION] under AS 16.43.200, which is included, in whole or in part,
 6 in the region in which the election is held.

7 * **Sec. 102.** AS 43.76.160(g) is amended to read:

8 (g) In this section, "eligible interim-use permit and entry permit holder" means
 9 an individual who, 90 days before the date ballots must be postmarked to be counted
 10 in an election under this section, is listed in the records of the **commercial fisheries**
 11 **entry division of the Department of Fish and Game** [ALASKA COMMERCIAL
 12 FISHERIES ENTRY COMMISSION] as the legal holder of an interim-use permit for
 13 dive gear or an entry permit for dive gear that authorizes the individual to fish
 14 commercially in the administrative area for the species of fishery resource for which
 15 the dive fishery management assessment is to be approved, amended, or terminated.

16 * **Sec. 103.** AS 43.76.210(1) is amended to read:

17 (1) "administrative area" means an area established by the **commercial**
 18 **fisheries entry division of the Department of Fish and Game** [ALASKA
 19 COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.200 for
 20 regulating and controlling entry into fisheries using dive gear;

21 * **Sec. 104.** AS 43.76.230(g) is amended to read:

22 (g) In this section, "eligible interim-use permit and entry permit holder" means
 23 an individual who, 90 days before the date ballots must be postmarked to be counted
 24 in an election under this section, is listed in the records of the **commercial fisheries**
 25 **entry division of the Department of Fish and Game** [ALASKA COMMERCIAL
 26 FISHERIES ENTRY COMMISSION] as the legal holder of an interim-use permit for
 27 salmon fishing gear or an entry permit for salmon fishing gear that authorizes the
 28 individual to fish commercially in the salmon fishery for which the salmon fishery
 29 assessment is to be approved, amended, or terminated.

30 * **Sec. 105.** AS 43.76.280(1) is amended to read:

31 (1) "administrative area" means an area established by the **commercial**

1 fisheries entry division of the Department of Fish and Game [ALASKA
2 COMMERCIAL FISHERIES ENTRY COMMISSION] under AS 16.43.200 for
3 regulating and controlling entry into salmon fisheries;

4 * **Sec. 106.** AS 43.76.300 is amended to read:

5 **Sec. 43.76.300. Permit buy-back assessment.** A person holding a limited
6 entry permit or interim-use permit under AS 16.43 for a fishery subject to a permit
7 buy-back assessment established by the commercial fisheries entry division of the
8 Department of Fish and Game [ALASKA COMMERCIAL FISHERIES ENTRY
9 COMMISSION] under AS 16.43.310 shall pay the permit buy-back assessment at the
10 rate established by the division [COMMISSION] on the value, as defined in
11 AS 43.75.290, of fish that the person removes from the state or transfers to a buyer in
12 the state under the authority conferred by the limited entry permit or interim-use
13 permit. The buyer shall collect the permit buy-back assessment at the time the fish is
14 acquired by the buyer.

15 * **Sec. 107.** AS 43.76.370(i) is amended to read:

16 (i) In this section, "eligible interim-use permit and entry permit holder" means
17 an individual who, 90 days before the date ballots must be postmarked to be counted
18 in an election under this section, is listed in the records of the commercial fisheries
19 entry division of the Department of Fish and Game [ALASKA COMMERCIAL
20 FISHERIES ENTRY COMMISSION] as the legal owner of an interim-use permit or
21 an entry permit that authorizes the individual to operate commercial fishing gear in the
22 fishery that is or will be subject to the seafood development tax that is the subject of
23 the election.

24 * **Sec. 108.** AS 44.64.030(a) is amended by adding a new paragraph to read:

25 (51) AS 16.43 (commercial fisheries entry division).

26 * **Sec. 109.** AS 44.81.231(d) is amended to read:

27 (d) Upon payment of the loan, the bank shall certify to the commercial
28 fisheries entry division of the Department of Fish and Game [ALASKA
29 COMMERCIAL FISHERIES ENTRY COMMISSION] that the loan has been repaid,
30 and the division [COMMISSION] shall amend the permit certificate to list the
31 equitable owner as the holder, and the legal interest of the bank shall terminate.

1 * **Sec. 110.** AS 44.81.241 is amended to read:

2 **Sec. 44.81.241. Initial notice of default.** If there is a default on a loan secured
3 by a permit pledged under AS 44.81.231, the bank shall notify the borrowers and
4 guarantors on the loan of the default and of the right to cure the default by sending a
5 notice by certified mail to their last known address or addresses on file with the bank.
6 The notice must include

7 (1) the date of the notice;

8 (2) a description of the security given for the loan, including the
9 number assigned by the **commercial fisheries entry division of the Department of**
10 **Fish and Game** [COMMISSION] and the name of the equitable owner of each permit
11 pledged to secure the loan;

12 (3) the date and nature of the default;

13 (4) the amount of arrearages as of the date of the notice;

14 (5) the total indebtedness, including interest, penalties, and costs of
15 collection, remaining owing on the loan as of the date of the notice;

16 (6) the amount of daily interest to accrue from the date of the notice;

17 (7) a statement that the costs of collection of the loan incurred by the
18 bank after the date of the notice will be added to the total amount of the indebtedness
19 owing on the loan;

20 (8) a statement that the default may be cured within 60 days from the
21 date of the notice or within an extended time period that is specified in an extension
22 notice provided by the bank within the 60-day period under AS 44.81.249;

23 (9) the place where payment of arrearages or other cure may be made;

24 and

25 (10) a statement in at least 10 point bold type stating:

26 "IMPORTANT: UNLESS YOU CURE THE LOAN DEFAULT
27 WITHIN THE TIME SPECIFIED BY THIS NOTICE, THE TOTAL
28 INDEBTEDNESS OWING ON THE LOAN SHALL BE
29 IMMEDIATELY DUE AND PAYABLE TO THE BANK WITHOUT
30 FURTHER NOTICE TO YOU. ALSO, THE BANK SHALL THEN
31 BE ENTITLED TO TAKE ANY LEGAL ACTION AGAINST YOU

1 TO COLLECT THE LOAN, INCLUDING THE INSTITUTION OF
 2 LAWSUITS AND THE FORECLOSURE OF THE PLEDGE OF ANY
 3 PERMIT PLEDGED TO SECURE THIS LOAN."

4 * **Sec. 111.** AS 44.81.245 is amended to read:

5 **Sec. 44.81.245. Foreclosure.** The bank may foreclose on a permit pledge that
 6 secures a loan by sending to the equitable owner of the permit pledged and any other
 7 borrowers and guarantors on the loan a notice of foreclosure. The notice shall be sent
 8 by certified mail to their last known address or addresses on file with the bank and
 9 must include

10 (1) the date of the notice;

11 (2) a statement that the total indebtedness owing on the loan became
 12 due and payable to the bank because the loan default was not cured within the time
 13 specified in the notice of default and right to cure provided under AS 44.81.241, and
 14 that as a result the bank is entitled to take legal action to collect the loan, including the
 15 forfeiture of a permit pledge that secures the loan and the institution of legal action;

16 (3) a description of the permit pledge that is being foreclosed by the
 17 notice, including an identification of the permit by the number assigned by the
 18 **commercial fisheries entry division of the Department of Fish and Game**
 19 [COMMISSION] and the name of the equitable owner;

20 (4) the amount of the total indebtedness owing as of the date of the
 21 notice;

22 (5) the amount of daily interest that accrues from the date of the notice;

23 (6) a statement that the costs of collection of the loan incurred by the
 24 bank after the date of the notice will be added to the total amount of the indebtedness
 25 due on the loan;

26 (7) a statement that to avoid forfeiture of all rights of the equitable
 27 owner of the permit identified in the notice, the loan must be paid in full within 60
 28 days from the date of the notice or within an extended time period that is specified in
 29 an extension notice provided by the bank within the 60-day period under
 30 AS 44.81.249;

31 (8) a statement that once a forfeiture of all rights of the equitable

1 owner of a permit described in the notice occurs, the permit may not be redeemed;

2 (9) a statement of the right of the equitable owner to nominate a person
3 to assume the loan under AS 44.81.250(c);

4 (10) the place where payment in full may be made; and

5 (11) a notice in at least 10 point bold type stating:

6 "IMPORTANT: IF THE LOAN IS NOT PAID IN FULL BY THE
7 DATE SPECIFIED, ALL RIGHTS OF THE EQUITABLE OWNER
8 TO THE PERMIT IDENTIFIED IN THIS NOTICE WILL BE
9 FORFEITED WITHOUT FURTHER NOTICE TO YOU. IN THAT
10 EVENT, THERE WILL NOT BE A RIGHT OF REDEMPTION OF
11 THE PERMIT. IN ADDITION, THE BANK MAY NOW TAKE
12 OTHER ACTION TO COLLECT THE LOAN, INCLUDING THE
13 INSTITUTION OF LEGAL ACTION AGAINST YOU AND THE
14 FORECLOSURE OF OTHER PERMIT PLEDGES THAT SECURE
15 THE LOAN."

16 * **Sec. 112.** AS 44.81.247(a) is amended to read:

17 (a) If a loan is not paid in full within the time specified by the notice provided
18 for the loan under AS 44.81.245, the equitable interest in the permit identified in the
19 notice terminates by operation of law without further notice. The **commercial**
20 **fisheries entry division of the Department of Fish and Game** [COMMISSION]
21 shall cancel an entry permit card issued to the equitable owner of the permit
22 immediately upon receipt by the **division** [COMMISSION] of a certificate of
23 termination containing a copy of the notices required by AS 44.81.241 and 44.81.245.

24 * **Sec. 113.** AS 44.81.250(a) is amended to read:

25 (a) Upon foreclosure of a pledge of an entry permit under AS 44.81.241 -
26 44.81.249 or the termination of a debtor's interest in an entry permit under
27 AS 44.81.247(b), the bank shall determine if the permit is subject to a buy-back
28 program under AS 16.43.290 - 16.43.330 and, if it is subject to a buy-back program,
29 shall offer the permit to the **commercial fisheries entry division of the Department**
30 **of Fish and Game** [COMMISSION] at a price equal to the outstanding indebtedness
31 on the loan.

1 * **Sec. 114.** AS 44.81.250(b) is amended to read:

2 (b) If the permit is not subject to a buy-back program, or if the **commercial**
 3 **fisheries entry division of the Department of Fish and Game** [COMMISSION]
 4 fails to buy back the permit within 30 days after the **division** [COMMISSION]
 5 receives the offer, the bank shall sell the permit to a person who qualifies as a
 6 transferee of an entry permit under AS 16.43 and the regulations adopted by the
 7 **division** [COMMISSION]. The bank shall give preference to an offer to purchase a
 8 permit made by a state resident if the price offered is equal to or greater than the price
 9 offered by a nonresident. If the proceeds of the sale of a permit exceed the amount
 10 necessary to pay the indebtedness in full, the bank shall remit the excess to the
 11 borrower.

12 * **Sec. 115.** AS 44.81.350(3) is amended to read:

13 (3) "**division**" ["COMMISSION"] means the **commercial fisheries**
 14 **entry division of the Department of Fish and Game** [ALASKA COMMERCIAL
 15 FISHERIES ENTRY COMMISSION] under AS 16.43.020;

16 * **Sec. 116.** AS 16.10.360(1); AS 16.43.020, 16.43.030, 16.43.040, 16.43.050, 16.43.060,
 17 16.43.070, 16.43.080, 16.43.228(e); AS 39.25.110(11)(D); and AS 39.50.200(b)(10) are
 18 repealed.

19 * **Sec. 117.** The uncodified law of the State of Alaska is amended by adding a new section
 20 to read:

21 TRANSITION. Litigation, hearings, investigations, and other proceedings pending
 22 under a law amended or repealed by this Act, or in connection with functions transferred by
 23 this Act, continue in effect and may be continued and completed notwithstanding a transfer or
 24 amendment or repeal provided for in this Act. Certificates, orders, and regulations issued or
 25 adopted under authority of a law amended or repealed by this Act remain in effect for the term
 26 issued, or until revoked, vacated, or otherwise modified under the provisions of this Act.
 27 Contracts, rights, liabilities, and obligations created by or under a law amended or repealed by
 28 this Act, and in effect on the effective date of this Act, remain in effect notwithstanding this
 29 Act's taking effect. Records, equipment, appropriations, and other property of agencies of the
 30 state whose functions are transferred under this Act shall be transferred to implement the
 31 provisions of this Act.

1 * **Sec. 118.** The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 EMPLOYEES. Employees of the Alaska Commercial Fisheries Entry Commission
4 become employees of the commercial fisheries entry division of the Department of Fish and
5 Game on the effective date of this Act.