

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

March 12, 2013

10:04 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Eric Feige
Representative Lynn Gattis
Representative Bob Herron
Representative Craig Johnson
Representative Kurt Olson
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 110

"An Act prohibiting the use of barbed hooks in certain freshwater areas."

- HEARD & HELD

HOUSE BILL NO. 143

"An Act relating to crewmember fishing licenses."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 110

SHORT TITLE: BARBED HOOKS

SPONSOR(S): REPRESENTATIVE(S) SEATON

02/11/13	(H)	READ THE FIRST TIME - REFERRALS
02/11/13	(H)	FSH, RES
02/21/13	(H)	FSH AT 10:00 AM CAPITOL 120
02/21/13	(H)	Heard & Held
02/21/13	(H)	MINUTE(FSH)
02/26/13	(H)	FSH AT 10:00 AM CAPITOL 120
02/26/13	(H)	Heard & Held
02/26/13	(H)	MINUTE(FSH)
03/12/13	(H)	FSH AT 10:00 AM CAPITOL 120

BILL: HB 143

SHORT TITLE: COMMERCIAL FISHING CREWMEMBER LICENSES

SPONSOR(S): REPRESENTATIVE(S) SEATON

02/27/13 (H) READ THE FIRST TIME - REFERRALS
02/27/13 (H) FSH, FIN
03/12/13 (H) FSH AT 10:00 AM CAPITOL 120

WITNESS REGISTER

BURKE WALDRON, Captain; Operations Commander
Division of Alaska Wildlife Troopers
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion about HB 110.

ERIC JORDAN
Commercial Fisherman
Sitka, Alaska

POSITION STATEMENT: Testified in support of HB 110 and HB 143.

DAN DUNAWAY
Dillingham, Alaska

POSITION STATEMENT: Testified during discussion of HB 110.

CHARLES SWANTON, Director
Division of Sport Fish
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 110.

DOUGLAS DUNCAN, Staff
Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 143 on behalf of the sponsor,
Representative Seaton.

JAMES HERBERT
Commercial Fisherman
Seward, Alaska

POSITION STATEMENT: Testified in support of HB 143.

KEVIN BROOKS, Deputy Commissioner
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 143.

ACTION NARRATIVE

[10:04:44 AM](#)

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 10:04 a.m. Representatives Seaton, Kreiss-Tomkins, Feige, Olson, Johnson, and Herron were present at the call to order. Representative Gattis arrived as the meeting was in progress.

HB 110-BARBED HOOKS

[10:05:06 AM](#)

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 110, "An Act prohibiting the use of barbed hooks in certain freshwater areas." [Before the committee was Version 28-LS0360\U.]

CHAIR SEATON noted that the committee was also considering a resolution for the lowering of Chinook salmon by-catch in the Gulf and Bering Sea troll fisheries.

[10:06:34 AM](#)

REPRESENTATIVE HERRON moved to adopt the proposed committee substitute (CS) for HB 110, labeled 28-LS0360\N, Bullard, 3/11/13, as the working draft.

[10:06:52 AM](#)

CHAIR SEATON objected for discussion.

CHAIR SEATON explained that the proposed committee substitute would move this statutory prohibition on the use of barbed hooks from AS 16.10 to AS 16.05, which would now include this restriction with other similar violations.

[10:08:09 AM](#)

CHAIR SEATON removed his objection, and there being no further objection, Version N was adopted as the working draft.

[10:08:47 AM](#)

The committee took a brief at-ease.

[10:09:22 AM](#)

CHAIR SEATON moved to adopt Amendment 1, labeled 28-LS0360\N.1, Bullard, 3/11/13, which read:

Page 1, following line 13:

Insert a new subsection to read:

"(d) In this section, "barbed hook" means a hook with at least one subsidiary point facing in the opposite direction of the main point of the hook; "barbed hook" does not include a hook from which all barbs have been pinched down, filed off, or otherwise removed."

CHAIR SEATON explained that the purpose of the proposed amendment was to add a definition for barbed hook into the regulation.

[10:10:44 AM](#)

REPRESENTATIVE HERRON objected.

[10:11:05 AM](#)

REPRESENTATIVE HERRON removed his objection. There being no further objection, Amendment 1 was adopted.

[10:11:23 AM](#)

CHAIR SEATON moved to adopt Amendment 2, labeled 28-LS0360\N.2, Bullard, 3/11/13, which read:

Page 1, following line 13:

Insert a new subsection to read:

"(d) In this section,

(1) "freshwater" means all inland water;

(2) "inland water" means water separated from salt water at the mouths of creeks and streams and rivers

at a line between the extremities of a river's banks at a mean low tide or at a point to be determined and adequately marked by the department."

[10:12:06 AM](#)

REPRESENTATIVE HERRON objected for discussion.

CHAIR SEATON explained that, as it was necessary to define the fresh waters affected by the proposed bill, proposed Amendment 2 offered that definition.

[10:12:41 AM](#)

REPRESENTATIVE HERRON removed his objection. There being no further objection, Amendment 2 was adopted.

[10:13:21 AM](#)

CHAIR SEATON opened public testimony.

[10:14:23 AM](#)

BURKE WALDRON, Captain; Operations Commander, Division of Alaska Wildlife Troopers, Department of Public Safety, suggested that a re-wording of the description for barbed hooks in Amendment 1 to read "a separate or different direction," instead of "the opposite direction" for the point of the primary hook would lend greater clarity. He announced that he was still evaluating the definitions for "fresh water" and "inland water" in Amendment 2, and that he would comment on this at a later time.

[10:15:57 AM](#)

ERIC JORDAN, Commercial Fisherman, stated his support for HB 110 and his support for conservation. He questioned why the House Special Committee on Fisheries was involved with this, as, he opined, it was an Alaska Board of Fisheries issue.

CHAIR SEATON explained that both the Alaska Board of Fisheries and the legislature addressed issues, and that the legislature had the responsibility to "look out for the resources of the state."

MR. JORDAN said that he strongly supported the proposed bill.

[10:19:34 AM](#)

CHAIR SEATON directed attention to a letter from the United Fishermen of Alaska (UFA), dated March 11, 2013 [Included in members' packets] which expressed its support for reducing catch mortality, but emphasized that this was an issue which should be addressed by the Alaska Board of Fisheries, and not the Alaska State Legislature. He introduced an article by Alex Wertheimer, "Hooking Mortality of Chinook Salmon Released by Commercial Trollers." [Included in members' packets] He reported that Mr. Wertheimer worked for the National Marine Fisheries Service at the Auke Bay Laboratory in Juneau in 1988, when this article was published. Reading from the Abstract at the top of page 1, he stated: "The recalculated estimate of total hooking mortality for legal and sublegal fish, based on wound severity, was 23.5 percent." He reported that the committee had pondered any means for limiting "all kinds of unintended mortality."

[10:21:13 AM](#)

DAN DUNAWAY expressed his objection that the legislature was "encroaching into the, what I see as, the realm of the Board of Fish, that's the whole reason we have a Board of Fish." He opined that a major reason for statehood had been for more public involvement, and to remove some of these issues from "the political arena." He offered his belief that the Alaska Board of Fisheries was a more appropriate assemblage. He referenced numerous fresh water studies that showed "a minimum biological gain for a significant social cost." He said that the definition of "barbless" often brought inadvertent violations and "squabbles" that alienated an otherwise supportive public. He offered his belief that there was not a significant gain from these regulations. He reported that Idaho was in the process of repealing its "barbless" rules and that Montana had also decided not to adopt "barbless" regulations.

[10:23:54 AM](#)

CHAIR SEATON closed public testimony.

[10:24:00 AM](#)

REPRESENTATIVE HERRON offered his belief that, although Chinook Salmon fisheries required a triage treatment to specific drainages, this was similar to applying a "Band-Aid to a very severe injury."

CHAIR SEATON, in response, stated that all aspects of the low stock returns of Chinook Salmon were being reviewed. He reflected that the committee had agreed to sponsor a resolution to lower the troll by-catch limits. He referenced testimony from commercial fishermen that the release of wounded by-catch had a significant, though unintended, mortality. He reported on the studies from Washington and Oregon which indicated a need to change fish harvesting operations in order to protect Chinook Salmon from unintended mortalities. He reflected that the problem was complex with many pieces, including species interactions and habitats, and that one solution would not fix the problem. He suggested that the purpose of the proposed bill was to address one piece of the many problems.

[10:27:11 AM](#)

REPRESENTATIVE HERRON questioned whether the legislature should be involved and reduce the number of catch and release per day.

CHAIR SEATON replied that even a small reduction in the mortality rate could be important, and that it was an idea worthy of further discussion.

REPRESENTATIVE HERRON asked about the positions of Alaska Department of Fish & Game (ADF&G) and the Alaska Board of Fisheries on this legislation.

[10:29:19 AM](#)

CHARLES SWANTON, Director, Division of Sport Fish, Alaska Department of Fish & Game (ADF&G), stated that ADF&G had a neutral stance on the proposed bill. He announced that the Alaska Board of Fisheries, amidst a lot of public input, had dealt with similar issues in past years.

[10:30:16 AM](#)

REPRESENTATIVE HERRON asked if the Alaska Board of Fisheries had taken a position on any similar legislation.

MR. SWANTON replied that he did not recall that it had taken a position on any legislation. In response to Representative Herron, he opined that the board was "generally silent or neutral." In response to an earlier question from Representative Herron, he stated that some fisheries which potentially had an issue with mortality, had options for

restrictions, including a prohibition for removal of the fish from the water.

[10:31:54 AM](#)

REPRESENTATIVE JOHNSON asked for a definition to "significant probability."

MR. SWANTON surmised that, as referenced in the proposed legislation, there would be a discussion between ADF&G and the Alaska Board of Fisheries for what would constitute significant probability. He acknowledged that, although he had given this significant thought, he had not arrived at a simple answer. He offered that significant would constitute greater than 50 percent, but, dependent on the situation, it could be as high as 95 percent.

REPRESENTATIVE JOHNSON asked if one fish would be significant in any stock of concern. He questioned whether this would vary by stream, or by management of an area, and asked how this would be designated.

MR. SWANTON acknowledged that it would need to be situational. He explained that the answer became more complex when contrasting Chinook Salmon escapement goals with other species involved.

[10:34:23 AM](#)

CHAIR SEATON referred to Version N, page 1, line 7, and read: "a person may not use a barbed hook when participating in a freshwater fishery in which more than one species is present if there is a significant probability of catching a species that may not be retained under a regulation adopted by the Board of Fisheries." He asked which would make the determination, the significant probability or the Alaska Board of Fisheries.

MR. SWANTON agreed that this would require a conversation with the Alaska Board of Fisheries.

CHAIR SEATON clarified that the intention of the proposed bill was not to stipulate an absolute, but to allow the Alaska Board of Fisheries the latitude to make a determination.

REPRESENTATIVE JOHNSON offered a different interpretation for the language of the proposed bill.

CHAIR SEATON expressed his agreement for the necessity to clarify the intention, as stated in Version N, page 1, lines 11 - 13.

REPRESENTATIVE JOHNSON expressed his understanding that the Alaska Board of Fisheries would determine the need for action, but he questioned what defined the significant probability and how that would be managed.

[10:38:14 AM](#)

REPRESENTATIVE JOHNSON, noting that commercial fishermen had mentioned significant mortality for Chinook Salmon, asked whether the commercial fishermen were using barbless hooks.

CHAIR SEATON referenced a previous proposal for the commercial fishery to use barbless hooks which had not been adopted.

REPRESENTATIVE JOHNSON suggested that HB 110 could be amended to include barbless hooks for fisheries in both salt and fresh water.

CHAIR SEATON agreed that it was possible to expand the bill for recreational and commercial fisheries, as well. He pointed out that the legislature had also imposed a 58 foot limit on seiners, and that additional legislative action had determined allowable types of fishing gear.

[10:40:02 AM](#)

MR. SWANTON added that in some high use, low retention fisheries, a large number of lodges and guiding operations had voluntarily required the use of barbless hooks by the guides and guests. He clarified that there was a low percentage of difference for mortality between a barbed and barbless hook. He pointed out that the measuring for fisheries management was not so refined to discern the difference between two and three percent mortality. He stated that the department would, instead, close the fishery rather than "shoulder the risk of trying to deal with small percentages."

CHAIR SEATON stated that, as the decline of king salmon had become an extensive problem for much of the state, the question was whether or not to wait for more research or to search for a solution. He said that it would continue to be difficult, especially given the data for unintended mortality. He shared his encouragement for the number of guides who required the use

of barbless hooks. He pointed out that the impetus for the proposed bill had come from fly fishermen on the Kenai River.

[10:45:04 AM](#)

REPRESENTATIVE GATTIS expressed that there was a difference for fishing guides using barbless hooks and fishermen "putting food in the freezer." She asked for clarification that this additional dimension to fisheries would not have any fiscal implication. She declared that she would not fish "for catch and release."

MR. SWANTON explained that ADF&G worked with the Alaska Board of Fisheries, and would bring it up at a statewide meeting.

REPRESENTATIVE GATTIS opined that, as this would add another duty, if it did not have an additional cost, then "something's gonna be spread thinner."

MR. SWANTON replied that this would depend on the meeting time and comprehensiveness for the amount of additional work during the regulatory meeting. He said that although there would be more focus on those specific fisheries issues, they would not really be "spread thinner."

[10:48:54 AM](#)

REPRESENTATIVE GATTIS explained that she was addressing the cost of enforcement that should be reflected in a fiscal note.

MR. SWANTON deferred.

[10:49:49 AM](#)

CHAIR SEATON asked to clarify if this would require more enforcement with this regulation.

CAPTAIN WALDRON replied that the fiscal impacts could not be determined until the language of the proposed bill was completed.

[HB 110 was held over.]

[10:51:55 AM](#)

The committee took a brief at-ease.

HB 143-COMMERCIAL FISHING CREWMEMBER LICENSES

10:53:24 AM

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 143, "An Act relating to crewmember fishing licenses."

10:53:34 AM

DOUGLAS DUNCAN, Staff, Representative Paul Seaton, Alaska State Legislature, paraphrased from the sponsor statement, which read:

HB 143 increases the cost for a seven-day commercial fishing crewmember license by \$30, establishing the cost at \$60. This increase in license cost addresses the growing problem of multiple consecutive short-term license purchases. The seven-day license was created by the Legislature as a way for tourists to experience commercial fishing in Alaska. These short-term crew licenses (also known as dude licenses) have been successful in their original intent, but there is concern that fishing crew members who would otherwise purchase an annual license are instead purchasing numerous consecutive short-term licenses.

As a trend, this decreases license receipt revenue to the state and impacts the Fishermen's Fund (a fund administered by the Department of Labor and Workforce Development to assist with the medical costs of accidents incurred during commercial fishing operations). As a group, those purchasing short-term licenses may be less experienced on a commercial vessel, and thus more likely to get injured, placing a burden on the Fishermen's Fund without helping to adequately pay for the program.

MR. DUNCAN stated that the use of multiple licenses had resulted in a revenue loss to the Fishermen's Fund, as 39 percent of the license fee went to the fund. He estimated the loss of revenue to the state and the Fishermen's Fund to be \$285,000 since the implementation of the program in 2005. He reiterated that the proposed bill would increase the cost of the seven-day license to \$60, up from \$30, to encourage the purchase of an annual license. He stated that the current program was not able to

effectively limit the purchase to one temporary license per person per year.

[10:56:36 AM](#)

CHAIR SEATON reminded the committee that there had been a presentation about this from Alaska Department of Fish & Game and Department of Labor & Workforce Development. He directed attention to the charts from that presentation. [Included in members' packets]

[10:56:57 AM](#)

CHAIR SEATON opened public testimony.

[10:57:05 AM](#)

MR. JORDAN stated his support for HB 143, and offered follow-up comments on HB 110. Regarding proposed HB 143, he offered his belief that a problem did exist when it was cheaper to purchase seven-day commercial fishing licenses in succession versus a seasonal license. He suggested that the seven-day commercial licenses be priced at \$30.00 for residents and \$100.00 for non-residents. Directing attention to page 1, line 7 of the proposed bill, he pointed out that the seven-day commercial license did not allow fishing with a rod and reel while on a commercial fishing vessel. He expressed his support for the proposed bill, with his suggested amendment for a change in the price of the license.

CHAIR SEATON asked for clarification about fishing with rod and reel, and whether the proposed \$100.00 non-resident fee would cover that aspect.

MR. JORDAN, in response, offered his understanding that a seven-day commercial license would not allow fishing with a rod and reel while on a commercial fishing vessel whereas, a full commercial license would allow use of a rod and reel on the commercial vessel. He expressed his support for this aspect.

[11:02:48 AM](#)

JAMES HERBERT, Commercial Fisherman, opened his comments with three questions: what is the purpose of the seven-day license; who benefits from this license; and, what is fair. He stated that this idea had first been introduced in the Alaska State Legislature in 2004, with an effective date in 2005. He

reported that this had been a difficult financial time for commercial fishing in Western Alaska, and that this idea had been to spur tourist interest in commercial fishing. He offered his belief that the implications for licensing, liability, and insurance associated with this had not been considered. He pointed to the data which indicated a rapid increase in the sales of non-resident, seven-day crew licenses, while the number of resident seven-day licenses had decreased. He noted that, although ADF&G did not indicate the districts for these license purchases, he conjectured that the majority were for the short, intense seasons in Bristol Bay and Cook Inlet, as multiple shorter licenses were less expensive than an annual license. Referring to the attached fiscal note, [Included in members' packets] he pointed out that the projected revenue from the proposed bill would be appreciably more if it also included the sales of seven-day commercial licenses for only two or three extensions. He offered his support for the seven-day commercial license with "a fair allocation," for the benefit of Alaska residents, while non-residents should be fairly assessed for participation in commercial fishing. Offering some guidance for pricing, he reminded the committee that the current price for a seven-day non-resident sport fishing license was more than twice the cost of a resident sport fishing license. He stated that the limit for a claim to the Fishermen's Fund had been increased to \$10,000. He reported that 39 percent from the sale of each fishing license was allocated to the fund. He offered his belief that an increase to the non-resident seven-day permits would lead to a decrease in revenue, with the possibility of more injuries to less experienced, non-resident fishermen, and a greater burden on the Fishermen's Fund. He expressed his support for the proposed bill.

[11:09:25 AM](#)

REPRESENTATIVE HERRON asked if there could be a limit of two to the number of consecutive licenses purchased.

MR. HERBERT offered his belief that the points of sale through the large number of vendors would make it difficult to track and to enforce.

[11:10:33 AM](#)

REPRESENTATIVE KREISS-TOMKINS shared that he had also explored this possibility and had determined that, although it was a great idea, it was "just not logistically feasible."

[11:11:18 AM](#)

CHAIR SEATON closed public testimony.

[11:11:50 AM](#)

CHAIR SEATON moved to adopt Amendment 1, labeled 28-LS0520\A.1, Bullard, 3/11/13, which read:

Page 1, line 1, following "**licenses**":

Insert "**; and providing for an effective date**"

Page 1, following line 10:

Insert a new bill section to read:

"* **Sec. 2.** This Act takes effect January 1, 2014."

[11:12:36 AM](#)

REPRESENTATIVE HERRON objected for discussion.

CHAIR SEATON reviewed the need to coincide the effective date with the publication of the ADF&G permit books.

[11:13:35 AM](#)

REPRESENTATIVE HERRON removed his objection. There being no further objection, Amendment 1 was adopted.

[11:13:50 AM](#)

REPRESENTATIVE KREISS-TOMKINS suggested that the rate of the commercial license remain at \$30 for residents and be raised to a rate of \$60.00 for non-residents. He opined that it was the non-residents who were "gaming the system, right now, to get these multiple permits, instead of getting the year-long commercial fishing license." He stated that this also kept the seven-day price lower than a seasonal permit for an in-state family member.

[11:15:09 AM](#)

KEVIN BROOKS, Deputy Commissioner, Office of the Commissioner, Alaska Department of Fish & Game (ADF&G), in response, said that the statutes would need to be reviewed, as there was an annual

resident fee with a differential, currently \$140, for the annual non-resident fee. He suggested that, for fee construct, it was easier for a proposed bill to have the same fee for residents and non-residents, as the specified differential for non-residents already existed. He pointed out that this differential was reviewed every three years; therefore the price point would also change every three years. He reported that the new annual differential rate would be \$190. He expressed agreement for the lower residential seven-day commercial permit, as the records indicated that only 17 seven-day residential permits were purchased for a second period. He pointed out that the cost for two of these residential seven-day permits was equal to the cost for an annual license. He suggested that the cost for a seven-day commercial license for both residents and non-residents be equal to half of the cost for an annual commercial license.

REPRESENTATIVE KREISS-TOMKINS stated his disagreement with the increase of the non-resident commercial license, and suggested that a non-resident commercial license cost equal to one-third of an annual commercial license would be more equitable, and would be "pegged to that changing price point."

MR. BROOKS stated that analysis had indicated that the price point could change the behavior of the buyer, and that the fiscal note reflected an annual price which would be less expensive than buying more than three seven-day permits. He explained that the fiscal note would be revised if the prices in the proposed bill were changed.

CHAIR SEATON asked if the committee wanted to work with ADF&G to further investigate an option for the differential in license price between residents and non-residents.

[11:20:53 AM](#)

REPRESENTATIVE GATTIS expressed her agreement with a price differential between resident and non-resident licenses, and she commented that the seven-day licenses were not always "gamed."

[11:21:46 AM](#)

CHAIR SEATON reviewed the rate proposals that had been considered as a result from public comment. He asked ADF&G to consider the differential, and suggest an appropriate rate that would be optimally effective for a seven-day license.

[HB 143 was held over.]

11:23:40 AM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:23 a.m.