

SENATE BILL NO. 135

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY SENATOR MICCICHE

Introduced: 1/16/18

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission;**
2 **requiring certain set net fishers to vote on the question of whether their entry permits**
3 **shall be subject to a state buy-back program; establishing a buy-back program for**
4 **certain set net entry permits; providing for the termination of set net site leases held by**
5 **individuals who participate in the entry permit buy-back program; providing for a**
6 **condition on future leases of certain state land; and providing for an effective date."**

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

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 FINDINGS. The Alaska State Legislature finds that it is in the public interest to
11 reduce the number of commercial set net fishers on the east side of Cook Inlet.

12 * **Sec. 2.** AS 16.43.200(b) is amended to read:

13 (b) The commission may modify or change the boundaries of **an**

1 administrative area or divide an existing administrative area into two or more
 2 separate administrative areas when necessary and consistent with the purposes of
 3 this chapter.

4 * **Sec. 3.** AS 16.43.200 is amended by adding new subsections to read:

5 (c) Notwithstanding (a) and (b) of this section, for the purposes of issuing
 6 entry permits and controlling entry into the commercial set net fishery on the east side
 7 of Cook Inlet, the commission shall establish the area administered on December 31,
 8 2018, as the Eastern Set Net Subdistrict of the Cook Inlet Central District as a distinct
 9 administrative area separate from the Cook Inlet Central District.

10 (d) An individual who holds an entry permit that entitles the person to set net
 11 commercially in the area that was administered on December 31, 2018, by the
 12 commission as the Cook Inlet Central District may not set net commercially in the
 13 area established under (c) of this section.

14 * **Sec. 4.** AS 38.05.082 is amended by adding a new subsection to read:

15 (g) Notwithstanding (a) - (d) of this section, the director may not enter into a
 16 new lease, or accept assignment or sublease of an existing lease, for shore fisheries
 17 development for shore gill net fishing on the east side of Cook Inlet adjacent to the
 18 area administered by the Alaska Commercial Fisheries Entry Commission on
 19 December 31, 2018, as the Eastern Set Net Subdistrict of the Cook Inlet Central
 20 District. However, the director may extend or renew an existing lease for shore
 21 fisheries development for shore gill net fishing.

22 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 TRANSITION: REASSIGNMENT OF COOK INLET CENTRAL DISTRICT SET
 25 NET ENTRY PERMITS. (a) On January 1, 2019, an individual holding an entry permit for
 26 the Cook Inlet set net fishery shall be reassigned an entry permit for the Cook Inlet Central
 27 District set net fishery, consistent with the boundaries of that administrative area established
 28 under AS 16.43.200, as amended by secs. 2 and 3 of this Act, unless the individual provides
 29 proof satisfactory to the Alaska Commercial Fisheries Entry Commission of the individual's
 30 participation in the fishery in the Eastern Set Net Subdistrict of the Cook Inlet Central District
 31 within the two years preceding December 31, 2018.

1 (b) An individual who provides proof satisfactory to the Alaska Commercial Fisheries
 2 Entry Commission of the individual's participation in the fishery in the Eastern Set Net
 3 Subdistrict of the Cook Inlet Central District under (a) of this section shall be reassigned an
 4 entry permit on January 1, 2019, for the new administrative area established under
 5 AS 16.43.200(c), enacted by sec. 3 of this Act.

6 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 7 read:

8 ELECTION FOR COMMERCIAL SET NET FISHING PERMIT BUY-BACK
 9 PROGRAM. (a) On March 1, 2019, the commission, with the cooperation of the Department
 10 of Natural Resources, shall conduct an election among individuals qualified under (b) of this
 11 section on the question of whether to establish an entry permit buy-back program under sec. 7
 12 of this Act.

13 (b) An individual is eligible to vote in the election conducted under (a) of this section
 14 if the individual holds

15 (1) an entry permit for set net fishing in the administrative area established
 16 under AS 16.43.200(c), enacted by sec. 3 of this Act; and

17 (2) a land lease from the Department of Natural Resources under
 18 AS 38.05.082 that allows the individual to fish the individual's shore set net entry permit.

19 (c) In conducting the election under this section, the commission shall adopt the
 20 following procedures:

21 (1) not less than 30 days before the date on which ballots must be postmarked
 22 to be counted in the election, the commission shall hold at least one public meeting to explain
 23 the buy-back program to eligible voters and other interested persons and to explain the
 24 registration and voting procedure to be used in the election; the commission shall provide
 25 notice of the meeting by

26 (A) mailing the notice to each eligible entry permit holder;

27 (B) posting the notice in at least three public places in the voting
 28 region; and

29 (C) publishing the notice in at least one newspaper of general
 30 circulation in the voting region at least once a week for two consecutive weeks before
 31 the meeting;

1 (2) the commission shall mail two ballots to each eligible entry permit holder;
 2 the commission shall mail the first ballot not more than 45 days before the date on which
 3 ballots must be postmarked to be counted in the election; the commission shall mail the
 4 second ballot not less than 15 days before the date on which ballots must be postmarked to be
 5 counted in the election; the commission shall adopt procedures to ensure that only one ballot
 6 from each eligible entry permit holder is counted in the election;

7 (3) the ballot must

8 (A) ask whether the buy-back program established by sec. 7 of this Act
 9 should be implemented;

10 (B) indicate the boundaries of the region in which the buy-back
 11 program would apply;

12 (C) clarify the details of the buy-back program, including the entry
 13 permit buy-back price to be offered by the commission under sec. 7 of this Act if the
 14 program is approved;

15 (D) provide an effective date for the initiation of the entry permit buy-
 16 back program if the program is approved; and

17 (E) indicate the date on which returned ballots must be postmarked in
 18 order to be counted;

19 (4) the ballots must be returned by mail and counted by the commission or a
 20 person approved by the commission.

21 (d) If the commission determines that the procedural requirements of (c) of this
 22 section have been satisfied, the commission shall certify the results of the election within 45
 23 days after the date on which ballots must be postmarked.

24 (e) In this section, "commission" means the Alaska Commercial Fisheries Entry
 25 Commission established under AS 16.43.020.

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

28 **COMMERCIAL SHORE SET NET ENTRY PERMIT BUY-BACK PROGRAM.** (a)
 29 If, in the election held under sec. 6 of this Act, the voters approve the buy-back program
 30 established by this section, an individual who holds a commercial fishing set net entry permit
 31 for the administrative area established under AS 16.43.200(c), enacted by sec. 3 of this Act,

1 and a shore fisheries development lease for shore gill net fishing from the Department of
2 Natural Resources under AS 38.05.082 may, subject to (c) of this section, sell the individual's
3 entry permit to the commission.

4 (b) Participation in the buy-back program established under this section is voluntary.
5 The commission shall purchase permits in the order in which they are offered for sale to the
6 commission. The commission shall have the right of first refusal to purchase an entry permit
7 subject to buy-back under this section. When an entry permit subject to this section is offered
8 for sale to the commission, without encumbrances, the commission shall, subject to
9 appropriation, purchase the entry permit for \$260,000. An entry permit purchased by the
10 commission under this section shall be cancelled, and the commission may not reissue the
11 permit or issue another permit in the place of the cancelled permit.

12 (c) The commission shall terminate the entry permit buy-back program under this
13 section when the number of commercial set net entry permits fished in the new administrative
14 area established under AS 16.43.200(c), enacted by sec. 3 of this Act, on land leased from the
15 Department of Natural Resources under AS 38.05.082 is reduced by 40 percent from the
16 number of set net entry permits fished in that same area in 2017.

17 (d) When the commission purchases an entry permit under (b) of this section, the
18 commission shall provide the Department of Natural Resources with notice of the sale, the
19 seller's identity, and the affected lease under AS 38.05.082.

20 (e) Upon notice from the commission under (d) of this section, and notwithstanding
21 AS 38.05.085, the Department of Natural Resources shall

22 (1) without penalty or charge, terminate a land lease held under AS 38.05.082
23 used to fish an entry permit purchased by the commission under (b) of this section; and

24 (2) prohibit future leases of the property for shore gill net fishing as provided
25 by AS 38.05.082(g), enacted by sec. 4 of this Act.

26 (f) The acquisition of entry permits under this section is not subject to AS 36.30 (State
27 Procurement Code).

28 (g) In this section, "commission," means the Alaska Commercial Fisheries Entry
29 Commission established under AS 16.43.020.

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

1 CONDITIONAL EFFECT FOR SEC. 7; NOTIFICATION TO LIEUTENANT
2 GOVERNOR AND REVISOR OF STATUTES. (a) Section 7 of this Act takes effect only if,
3 before June 1, 2018, the chair of the Alaska Commercial Fisheries Entry Commission
4 provides written notice to the lieutenant governor and the revisor of statutes under (b) of this
5 section.

6 (b) The chair of the Alaska Commercial Fisheries Entry Commission designated
7 under AS 16.43.020 shall, before June 1, 2018, notify the lieutenant governor and the revisor
8 of statutes in writing if the election to approve or disapprove the entry permit buy-back
9 program held under sec. 6 of this Act resulted in an affirmative majority vote as certified
10 under sec. 6 of this Act.

11 * **Sec. 9.** AS 16.43.200(c) and (d), enacted by sec. 3 of this Act, take effect January 1, 2019.

12 * **Sec. 10.** If, under sec. 8 of this Act, sec. 7 of this Act takes effect, it takes effect on July 1,
13 2019.

14 * **Sec. 11.** Except as provided in secs. 9 and 10 of this Act, this Act takes effect July 1,
15 2018.