

HOUSE BILL NO. 252

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TUCK

Introduced: 2/17/20

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the reporting of certain information relating to commercially**
2 **harvested fishery resources; relating to the delegation of authority to fish under a**
3 **limited entry commercial fishing permit; and providing for an effective date."**

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

5 * **Section 1.** AS 16.05 is amended by adding a new section to read:

6 **Sec. 16.05.669. Commercial fisher's signature on fish ticket.** An entry
7 permit holder must sign and submit a fish ticket for all fish or byproducts of fish
8 harvested by the entry permit holder. An entry permit holder may only sign a fish
9 ticket for fish or byproducts of fish that were harvested in the presence of the permit
10 holder.

11 * **Sec. 2.** AS 16.05 is amended by adding a new section to read:

12 **Sec. 16.05.938. Construction of chapter.** In AS 16.05.253(a), 16.05.480(a),
13 16.05.669, 16.05.675(a), 16.05.680(a), and 16.05.723(b), a holder of an entry permit is
14 construed to include a person who is delegated the entry permit under AS 16.43.185.

1 * **Sec. 3.** AS 16.10 is amended by adding a new section to read:

2 **Article 15. General Provisions.**

3 **Sec. 16.10.948. Construction of chapter.** In AS 16.10.265(a), 16.10.267(a),
4 and 16.10.455(b), a holder of an entry permit is construed to include a person who is
5 delegated the entry permit under AS 16.43.185.

6 * **Sec. 4.** AS 16.43.140(a) is amended to read:

7 (a) A person may not operate gear in the commercial taking of fishery
8 resources unless the person holds [WITHOUT] a valid entry permit or a valid
9 interim-use permit or is delegated the authority to fish an entry permit under
10 AS 16.43.185 [ISSUED BY THE COMMISSION].

11 * **Sec. 5.** AS 16.43.140(b) is amended to read:

12 (b) A permit is not required of a crewmember or other person assisting in the
13 operation of a unit of gear engaged in the commercial taking of fishery resources as
14 long as the holder of the entry permit or [THE] interim-use permit or a person
15 delegated the authority to fish the entry permit under AS 16.43.185 for that
16 particular unit of gear is at all times present and actively engaged in the operation of
17 the gear.

18 * **Sec. 6.** AS 16.43.150(a) is amended to read:

19 (a) Except as may be otherwise provided under AS 16.43.270(d), an entry
20 permit authorizes the permittee, or a person delegated the authority to fish the
21 entry permit under AS 16.43.185, to operate a unit of gear within a specified fishery.

22 * **Sec. 7.** AS 16.43.150(b) is amended to read:

23 (b) The holder of an entry permit or a person delegated the authority to fish
24 the entry permit under AS 16.43.185 shall have the permit in possession at all times
25 when engaged in the operation of gear for which it was issued.

26 * **Sec. 8.** AS 16.43.150 is amended by adding a new subsection to read:

27 (j) A person delegated the authority to fish an entry permit under
28 AS 16.43.185 shall have the person's name listed as a second name on the entry permit
29 and, to the extent provided by this chapter, enjoys the same use privilege or right in a
30 fishery that is available to an individual holding an entry permit or valid interim-use
31 permit under this chapter.

1 * **Sec. 9.** AS 16.43 is amended by adding a new section to read:

2 **Sec. 16.43.152. Entry permits transferred by right of survivorship.** (a) A
3 person who becomes a holder of an entry permit by right of survivorship under
4 AS 16.43.150(h) as the spouse or dependent child of a permit holder who participated
5 actively in the fishery

6 (1) may, notwithstanding the person's ability to participate actively in
7 the fishery under AS 16.43.170(b), delegate the authority to fish the permit to another
8 individual under AS 16.43.185;

9 (2) is not subject to the limit on the number of times an entry permit
10 may be delegated under AS 16.43.185(b)(2); and

11 (3) is exempt from the fish ticket signing requirements of
12 AS 16.43.185(c).

13 * **Sec. 10.** AS 16.43 is amended by adding a new section to article 2 to read:

14 **Sec. 16.43.185. Delegation of authority to fish an entry permit.** (a) An entry
15 permit holder may delegate the permit holder's authority to fish the entry permit to the
16 extent permitted under this section. Upon the request of an entry permit holder, the
17 commission may add a second person's name to the permit holder's entry permit for a
18 period not to exceed five years. An entry permit holder who holds more than one entry
19 permit may delegate the permit holder's authority to fish more than one of the permit
20 holder's entry permits; however, only one of the entry permits may be actively fished
21 at any one time. A person who is delegated the authority to fish an entry permit under
22 this section

23 (1) may operate gear in the commercial taking of fishery resources
24 authorized under the entry permit and this chapter and may deliver and land fish under
25 AS 16.05.675;

26 (2) may only be delegated the authority to fish a single entry permit at
27 any one time; and

28 (3) has no ownership interest in an entry permit delegated to the person
29 under this section.

30 (b) Under this section, the commission may not allow an entry permit to be
31 delegated

(1) to a person whose fishing privileges are suspended or revoked under this chapter;

(2) more than twice during the period the entry permit is held by the same person.

(c) Except as provided under AS 16.43.152, an entry permit holder who has delegated the permit holder's authority to fish an entry permit to another person under this section must sign the following percentage of fish tickets submitted under AS 16.05.669:

(1) 70 percent if it is the first season that the entry permit is delegated to another individual under this section;

(2) 60 percent if it is the second season that the entry permit is delegated to another individual under this section;

(3) 50 percent if it is the third season that the entry permit is delegated to another individual under this section;

(4) 40 percent if it is the fourth season that the entry permit is delegated to another individual under this section;

(5) 30 percent if it is the fifth or subsequent season that the entry permit is delegated to another individual under this section.

(d) Nothing in this section authorizes an entry permit holder to fish more than a single entry permit for a fishery in violation of AS 16.43.140.

(e) The commission shall adopt regulations to implement this section.

* **Sec. 11.** AS 16.43.850 is amended by adding a new subsection to read:

(e) In this section, "permit holder" includes a person fishing an entry permit under AS 16.43.185.

* **Sec. 12.** AS 16.43.855(a) is amended to read:

(a) Notice of each assessment of points shall be given to the permit holder and, if applicable, to a person fishing the permit under AS 16.43.185. Notice shall also be given to the permit holder and any person fishing the permit under AS 16.43.185 before the expiration of a suspension of commercial salmon fishing privileges under AS 16.43.850(d) that subsequent violations of commercial fishing laws in the salmon fishery may result in further suspensions of the permit. The notice

1 may be given by first class mail.

2 * **Sec. 13.** AS 16.43.855(c) is amended to read:

3 (c) The assessment of points against a permit holder or person fishing a
 4 permit under AS 16.43.185 by the commission under AS 16.43.850 - 16.43.895 is in
 5 addition to, and not in substitution for, other provisions of this title and is not a
 6 substitute for any penalty imposed by a court.

7 * **Sec. 14.** AS 16.43.855 is amended by adding a new subsection to read:

8 (e) If points are assessed against a person fishing a permit under
 9 AS 16.43.185, the same number of points shall also be assessed against the permit
 10 holder. Points assessed against the transferor of the permit under this subsection shall
 11 be included in calculations made under AS 16.43.850(d).

12 * **Sec. 15.** AS 16.43.860 is amended to read:

13 **Sec. 16.43.860. Suspension.** (a) A permit holder, or person delegated the
 14 authority to fish a permit under AS 16.43.185, whose commercial salmon fishing
 15 privileges for a salmon fishery are suspended under AS 16.43.850 - 16.43.895 may not
 16 obtain an entry permit or interim-use permit for that salmon fishery, or be delegated
 17 the authority to fish another person's permit under AS 16.43.185, during the
 18 period of the suspension of the privileges. During the period for which the permit
 19 holder's or person's privilege to obtain an entry permit or interim-use permit for a
 20 salmon fishery is suspended under this section, the commission may not issue a permit
 21 card to the permit holder, or a person delegated the authority to fish the permit
 22 under AS 16.43.185, for that fishery.

23 (b) A permit holder or person whose privilege of obtaining a commercial
 24 fishing permit for a salmon fishery is suspended under AS 16.43.850 - 16.43.895 may
 25 not

26 (1) engage in the salmon fishery under a crewmember license; [OR]

27 (2) be delegated the authority to fish a permit holder's entry
 28 permit for the salmon fishery under AS 16.43.185; or

29 (3) lease or rent the permit holder's interest in a boat to another person
 30 if the boat would be used in the salmon fishery for which the permit holder's fishing
 31 privileges are suspended.

(c) If, during the period for which the commission has suspended the [A PERMIT HOLDER'S] commercial fishing privileges of a permit holder or person delegated the authority to fish an entry permit under AS 16.43.185 for a salmon fishery [ARE SUSPENDED], the commission establishes a limited entry system for the salmon fishery, the permit holder or person shall be eligible to obtain an entry permit for that fishery to the extent that the permit holder or person qualifies for the entry permit under regulations adopted by the commission. If the permit holder or person qualifies for an entry permit for the fishery, the commission shall withhold issuance of the entry permit until the period of the suspension imposed under AS 16.43.850 - 16.43.895 has expired.

(d) The commission may not transfer a commercial fishing permit for a salmon fishery under an emergency transfer under AS 16.43.180 or authorize the addition of a person to a permit under AS 16.43.185 if, at the time of the application for the emergency transfer or addition under AS 16.43.185, the [PERMIT HOLDER'S] commercial salmon fishing privileges of the permit holder or person who would be added to a permit under AS 16.43.185 for the salmon fishery have been suspended.

* **Sec. 16.** AS 16.43.960(a) is amended to read:

(a) The commission may revoke, suspend, or transfer all entry or interim-use permits held by a person who knowingly provides or assists in providing false information [,] or fails to correct false information provided to the commission for the purpose of obtaining a benefit for self or another, including the issuance, renewal, duplication, or transfer of an entry or interim-use permit [,] or vessel license. The commission may also revoke the delegation of authority to fish an entry permit under AS 16.43.185 if the person knowingly provides or assists in providing false information or fails to correct false information provided to the commission for the purpose of obtaining a benefit for self or another. The commission may suspend a [THAT] person's eligibility to hold or be delegated authority to fish an entry or interim-use permit for a period not to exceed three years, and may impose an administrative fine of not more than \$5,000 on the person. The commission may also impose an administrative fine of not more than \$5,000 on an entity whose officers,

employees, representatives, or agents knowingly provide or assist in providing false information, or fail to correct false information provided, to the commission for the purpose of obtaining a benefit.

* **Sec. 17.** AS 16.43.970(e) is amended to read:

(e) Notwithstanding any other provision of this section, an interim-use or entry permit may not be transferred **under AS 16.43.170 or authority delegated under AS 16.43.185** while **the permit is** under suspension, without the consent of the commission.

* **Sec. 18.** AS 43.76.370(i) is amended to read:

(i) In this section, "eligible interim-use permit and entry permit holder" means an individual who, 90 days before the date ballots must be postmarked to be counted in an election under this section, is listed in the records of the Alaska Commercial Fisheries Entry Commission as the legal owner of an interim-use permit or an entry permit that authorizes the individual to operate commercial fishing gear in the fishery that is or will be subject to the seafood development tax that is the subject of the election. **A person who is delegated the authority to fish an entry permit under AS 16.43.185 for a fishery subject to a seafood development tax under AS 43.76.350 - 43.76.399 is not eligible to vote in an election under this section.**

* **Sec. 19.** AS 43.76.399 is amended by adding a new paragraph to read:

(5) "person holding a limited entry permit or interim-use permit under AS 16.43" includes a person who is delegated the authority to fish a limited entry permit under AS 16.43.185.

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

TRANSITION: REGULATIONS. The Alaska Commercial Fisheries Entry Commission and the commissioner of fish and game may adopt regulations necessary to implement the provisions of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 21.** Section 20 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect January 1, 2021.