

CS FOR HOUSE BILL NO. 195(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 4/3/24

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVE RUFFRIDGE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission;**
2 **relating to administrative areas for regulation of certain commercial set net entry**
3 **permits; establishing a buy-back program for certain set net entry permits; providing**
4 **for the termination of state set net tract leases under the buy-back program; and**
5 **providing for an effective date."**

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

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

9 SHORT TITLE. This Act may be known as the East Side of Cook Inlet Set Net Fleet
10 Reduction Act.

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

13 LEGISLATIVE FINDINGS. (a) The Alaska State Legislature finds that there is a

1 clear and legitimate state purpose in addressing the dire predicament faced by commercial set
2 net fishers on the east side of Cook Inlet. The predicament stems primarily from the
3 following:

4 (1) the recent return of king salmon to the Kenai River, which resulted in the
5 2023 closure of commercial set net fishing on the east side of Cook Inlet;

6 (2) management restrictions adopted in 2024 that limit the use of commercial
7 set nets in the region that serve to almost close the east side of Cook Inlet to commercial set
8 netting;

9 (3) the Department of Fish and Game's treatment of the incidental catch of
10 king salmon by commercial set netters fishing for sockeye salmon as a significant challenge
11 to conservation efforts;

12 (4) the importance of Kenai River king salmon to the residents of the state for
13 personal use and to the sportfish guiding industry on the Kenai River; and

14 (5) long-term allocative changes made by the Board of Fisheries to how the
15 state's fishery resource is allocated, with data from the Department of Fish and Game
16 indicating a substantial reduction in commercial set netter fishing times on the east side of
17 Cook Inlet over the years, from upward of 500 hours annually in the late 1980s to an average
18 of 200 hours annually in recent years; while the management changes may be intended to
19 balance fishery interests statewide, the commercial set net fishery on the east side of Cook
20 Inlet is uniquely vulnerable because of its location amid the state's largest and expanding
21 population base.

22 (b) The Alaska State Legislature finds that, for over 150 years, generations of
23 commercial set netting families have been central to the legacy of the historic commercial set
24 net fishery on the east side of Cook Inlet. Since the 1840s, commercial set netters have
25 harvested salmon that has sustained local communities and reached tables worldwide.
26 Commercial set netting is a long tradition in the region, used in early international fishing
27 expeditions to the water on the east side of Cook Inlet and generating salmon for the first
28 cannery at the mouth of the Kasilof River in 1882. From the founding of that cannery, the
29 cannery industry expanded rapidly, with 37 canneries along the state's coast by 1892. When
30 fish traps were prohibited, set nets were essential for independent fishers, ensuring the
31 continuation of commercial salmon harvesting for canneries. Commercial set net fishing has

1 been a sustainable tradition that has profoundly influenced the cultural and economic fabric of
2 the east side of Cook Inlet.

3 (c) The Alaska State Legislature finds that this Act, including the limitations on
4 eligibility for the buyback of a commercial limited entry permit for the set net fishery on the
5 east side of Cook Inlet, is rooted in the specific challenges these particular commercial fishers
6 face. Unlike other fisheries, the commercial set net fishery on the east side of Cook Inlet has
7 been subject to targeted closures, severely limiting the ability of commercial set net fishers to
8 fish commercially in recent years. This fishery relies on sockeye salmon returns to the Kenai
9 and Kasilof Rivers, which are experiencing management pressures generated by the demands
10 of the region's growing population.

11 (d) The Alaska State Legislature finds that the Department of Fish and Game's 2023
12 Upper Cook Inlet Commercial Salmon Fishery Season Summary sheds light on the stark
13 realities faced by commercial set netters fishing the east side of Cook Inlet. The fishery was
14 closed throughout the 2023 season because of a dismal forecast for Kenai River late-run large
15 king salmon. Consequently, there was no commercial salmon harvest in the commercial set
16 net fishery on the east side of Cook Inlet, further exacerbating the economic challenges
17 confronting these fishers. In contrast, other fisheries in the region and around the state were
18 able to operate under varying conditions. Some even experienced bountiful seasons.

19 (e) The Alaska State Legislature finds that it is significant that the Upper Subdistrict
20 of the Cook Inlet Central District area remained completely closed throughout the summer of
21 2023. While other districts and subdistricts operated under different management conditions,
22 the closure of commercial set net fishing in this subdistrict underscores the unique challenges
23 faced by this segment of the fishing industry. Therefore, the Alaska State Legislature finds
24 that it is imperative to address the specific needs and concerns of commercial set netters
25 operating on the east side of Cook Inlet through targeted legislative measures, including those
26 proposed in this Act.

27 (f) The Alaska State Legislature finds that the buy-back program established by this
28 Act addresses the inadequacies of applicable existing statutory provisions. The existing buy-
29 back provisions, which allow for the establishment of taxes on existing operators, do not
30 address the specific needs of commercial set netters operating on the east side of Cook Inlet.
31 Taxing permit holders who operate outside the east side of Cook Inlet to fund buybacks for

1 commercial limited entry permits fished on the east side of Cook Inlet is not viable.
2 Therefore, this Act's establishment of a smaller management area exclusively for commercial
3 set netters fishing on the east side of Cook Inlet is crucial to ensuring the effectiveness and
4 fairness of this Act's buy-back program.

5 (g) The Alaska State Legislature finds that allowing certain qualified commercial
6 limited entry permit holders to sell their permits to the Alaska Commercial Fisheries Entry
7 Commission while excluding other commercial fishers is essential to the integrity and
8 effectiveness of the buy-back program. By restricting eligibility to those with a demonstrated
9 history of involvement in the fishery, this Act prevents opportunistic speculation and ensures
10 that only individuals who were genuinely invested in the fishery on the east side of Cook Inlet
11 are eligible. That portion of this Act prevents a person from acquiring a limited entry permit
12 solely for the purpose of profiting from this Act's buy-back provisions.

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

14 (c) Notwithstanding (a) and (b) of this section, for the purposes of issuing
15 entry permits and controlling entry into the commercial set net fishery on the east side
16 of Cook Inlet, the commission shall establish the area administered on December 31,
17 2024, identified by the Department of Fish and Game as of January 1, 2024, as
18 statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and 244-42 of the Upper
19 Subdistrict of the Cook Inlet Central District as a distinct administrative area separate
20 from the Cook Inlet administrative area.

21 (d) An entry permit that entitled a person to set net commercially in the area
22 that was administered on December 31, 2024, by the commission as the Cook Inlet
23 administrative area does not entitle that person to set net commercially in the
24 administrative area established under (c) of this section unless the commission
25 reassigns the permit to that administrative area.

26 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **TRANSITION: REASSIGNMENT OF CERTAIN COOK INLET AREA SET NET**
29 **ENTRY PERMITS.** (a) On January 1, 2025, an individual holding an entry permit that entitles
30 the individual to commercially set net in the Cook Inlet administrative area may have the
31 individual's entry permit renewed as an entry permit for the Cook Inlet set net administrative

1 area under AS 16.43.150(c), consistent with the boundaries of that administrative area
2 established under AS 16.43.200, as amended by sec. 3 of this Act, unless the individual
3 provides proof satisfactory to the Alaska Commercial Fisheries Entry Commission of the
4 individual's participation in the fishery in the areas identified by the Department of Fish and
5 Game as of January 1, 2024, as statistical areas 244-21, 244-22, 244-31, 244-32, 244-41, and
6 244-42 of the Upper Subdistrict of the Cook Inlet Central District within the two years
7 preceding December 31, 2023. Proof satisfactory of participation under this subsection may
8 include a shore fisheries lease, an area registration, a buoy tag, or previous submission of
9 fishing statistics for the area.

10 (b) An individual who provides proof satisfactory to the Alaska Commercial Fisheries
11 Entry Commission of the individual's participation in the fishery in the areas identified by the
12 Department of Fish and Game as of January 1, 2024, as statistical areas 244-21, 244-22, 244-
13 31, 244-32, 244-41, and 244-42 of the Upper Subdistrict of the Cook Inlet Central District
14 under (a) of this section shall be reassigned an entry permit on January 1, 2025, for the new
15 administrative area established under AS 16.43.200(c), enacted by sec. 3 of this Act.

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

18 **APPEAL OF COMMISSION DECISION NOT TO ASSIGN AN APPLICANT'S**
19 **PERMIT TO NEW ADMINISTRATIVE AREA.** (a) An individual may appeal a decision by
20 the Alaska Commercial Fisheries Entry Commission to renew the entry permit held by the
21 individual that allows the individual to commercially fish in the Cook Inlet administrative
22 area, as the area's boundaries are amended by AS 16.43.200(c), enacted by sec. 3 of this Act,
23 instead of issuing the individual an entry permit for the administrative area established by
24 AS 16.43.200(c), enacted by sec. 3 of this Act. An appeal under this section must be made to
25 the superior court on or before March 1, 2025.

26 (b) The commission shall provide an individual who is appealing a decision of the
27 commission under this section

28 (1) a provisional entry permit for the administrative area established by
29 AS 16.43.200(c), enacted by sec. 3 of this Act; and

30 (2) if the individual's appeal has not been resolved at the time of the election
31 held under sec. 6 of this Act, a provisional ballot for the election.

1 (c) If an individual's appeal has not been resolved at the time of the election held
 2 under sec. 6 of this Act, the individual may cast a provisional ballot that may be counted as a
 3 vote in the election only if, on appeal, the court determines that the individual's entry permit
 4 must be reassigned to the administrative area established by AS 16.43.200(c), enacted by sec.
 5 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 April 1, 2025, the commission, with the cooperation of the Department of
 10 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 an entry permit, or provisional entry permit issued under sec. 5(b) of
 15 this Act, for set net fishing in the administrative area established under AS 16.43.200(c),
 16 enacted by sec. 3 of this Act.

17 (c) The commission shall conduct the election according to the following procedures:

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

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

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

26 (C) publishing the notice on the Alaska Online Public Notice System
 27 (AS 44.62.175) and in at least one newspaper of general circulation in the voting
 28 region at least once a week for two consecutive weeks before the meeting;

29 (2) the commission shall mail two ballots to each eligible entry permit holder;
 30 the commission shall mail the first ballot not more than 45 days before the date on which
 31 ballots must be postmarked to be counted in the election; the commission shall mail the

1 second ballot not less than 15 days before the date on which ballots must be postmarked to be
 2 counted in the election; the commission shall adopt procedures to ensure that only one ballot
 3 from each eligible entry permit holder is counted in the election;

4 (3) the ballot must

5 (A) ask whether the buy-back program established under sec. 7 of this
 6 Act should be implemented;

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

9 (C) clarify the details of the buy-back program, including which set net
 10 entry permit holders are eligible to participate and how the entry permit buy-back
 11 price will be determined by the commission under sec. 7 of this Act if the program is
 12 approved;

13 (D) provide the effective date for the initiation of the entry permit buy-
 14 back program if the program is approved without reliance on provisional ballots and
 15 how the program's effective date will be determined if approval of the program
 16 depends on counting provisional ballots; and

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

23 (1) within 45 days after the date on which ballots must be postmarked; or

24 (2) only after a sufficient number of program applicants' appeals are resolved
 25 under sec. 5 of this Act so that the commission may determine the outcome without counting
 26 provisional ballots.

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

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

31 **COMMERCIAL SHORE SET NET ENTRY PERMIT BUY-BACK PROGRAM.** (a)

1 In addition to the buy-back provisions under AS 16.43.310 and 16.43.320, an individual who
2 is qualified under this section may sell the individual's entry permit to the commission under
3 the conditions established in this section. Except as provided in sec. 6 of this Act, to
4 participate, an individual must

5 (1) hold a commercial fishing set net entry permit for the administrative area
6 established under AS 16.43.200(c), enacted by sec. 3 of this Act;

7 (2) provide a shore fisheries lease, an area registration, a buoy tag, a previous
8 submission of fishing statistics for the area, or other documentation proving, to the
9 commission's satisfaction, that the individual or an immediate family member of the
10 individual

11 (A) has held the entry permit that was reassigned from the Cook Inlet
12 to the administrative area established under AS 16.43.200(c) since January 1, 2020;
13 and

14 (B) actively participated in the fishery identified by the Department of
15 Fish and Game as of January 1, 2024, as statistical areas 244-21, 244-22, 244-31, 244-
16 32, 244-41, and 244-42 of the Upper Subdistrict of the Cook Inlet Central District
17 within the two years preceding December 31, 2022;

18 (3) provide an affidavit to the commission containing an accurate description
19 of the specific site used to fish the entry permit; the description must include, if the site is

20 (A) leased under AS 38.05.082, the lease agreement;

21 (B) leased from a municipality, the geographic location and boundaries
22 of the leased tract; and

23 (C) on unleased public land, a site survey and other related information
24 that may be required by the commission; and

25 (4) apply to the commission within 30 days after the effective date of this
26 section.

27 (b) Participation in the buy-back program established under this section is voluntary.
28 Subject to appropriation and to this section, the commission shall buy back the unencumbered
29 entry permit of an individual qualified under this section. A qualified individual may apply
30 electronically on a form provided by the commission to have the individual's entry permit
31 purchased under this section. If an applicant is disqualified from participation in the program

1 under (c) of this section, elects not to participate in the buy-back program, fails to sign the
 2 contract of sale within a period specified by the commission, or fails to provide all of the
 3 information required under (a) of this section, the commission shall disapprove the
 4 individual's application and may not buy back the individual's entry permit under the program.

5 (c) If an applicant has a provisional entry permit provided under sec. 5(b) of this Act,
 6 the commission shall set aside the funds to buy back the permit but may not buy back the
 7 permit until a court finds, in a final judicial determination, that the permit must be reassigned
 8 by the commission to the administrative area established under AS 16.43.200(c), enacted by
 9 sec. 3 of this Act. If the court finds, in a final determination, that the commission's
 10 determination not to reassign an applicant's permit to the administrative area established by
 11 AS 16.43.200(c) was correct, the applicant is not qualified to participate in the buy-back
 12 program established by this section.

13 (d) The commission shall cancel an entry permit purchased under this section. The
 14 commission may not reissue a permit or issue another permit in the place of a cancelled
 15 permit.

16 (e) Subject to appropriation and (c) of this section, the commission shall

17 (1) determine the amount for which to buy back an entry permit of an
 18 applicant by dividing the money allotted to the buy-back program established by this section
 19 among the qualified applicants after

20 (A) all appeals made under sec. 5 of this Act concerning the
 21 assignment of entry permits are resolved; and

22 (B) all timely received applications have been approved or
 23 disapproved by the commission under (b) of this section;

24 (2) buy back the entry permit of an applicant for an amount determined under
 25 (1) of this subsection, less administrative costs; and

26 (3) provide each applicant whose entry permit is purchased by the commission
 27 under this section the option of accepting payment in three annual installments.

28 (f) When the commission purchases an entry permit under (b) of this section from an
 29 individual who fishes the individual's entry permit from a site

30 (1) leased under AS 38.05.082, the commission shall provide the Department
 31 of Natural Resources with notice of the sale, the seller's identity, and the description of the

1 lease provided under (a)(3)(A) of this section;

2 (2) leased from a municipality or from other unleased public or private land,
3 the commission shall provide the Department of Natural Resources and the Department of
4 Fish and Game with notice of the sale, the seller's identity, and information concerning the
5 leased tract provided by the individual under (a)(3)(B) of this section.

6 (g) Upon notice from the commission under (f) of this section, and notwithstanding
7 AS 38.05.085, the Department of Natural Resources shall, without penalty or charge,
8 terminate all land leases held under AS 38.05.082 used to fish an entry permit purchased by
9 the commission under (b) of this section.

10 (h) When the commission purchases an entry permit from an individual who fished
11 the entry permit from land leased from a municipality, the commission shall notify the
12 Department of Natural Resources and the municipality of the purchase.

13 (i) The acquisition of an entry permit under this section is not subject to AS 36.30
14 (State Procurement Code).

15 (j) In this section,

16 (1) "commission" means the Alaska Commercial Fisheries Entry Commission
17 established under AS 16.43.020;

18 (2) "immediate family member" means

19 (A) the spouse of an individual;

20 (B) another individual cohabiting with an individual in a conjugal
21 relationship that is not a legal marriage;

22 (C) a child, including a stepchild and an adopted child, of an
23 individual;

24 (D) a parent, sibling, grandparent, aunt, or uncle of an individual; and

25 (E) a parent or sibling of an individual's spouse.

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

28 REPORT TO LEGISLATURE. The Alaska Commercial Fisheries Entry Commission
29 shall provide a written report to the legislature on the status of the entry permit buy-back
30 program established under sec. 7 of this Act, including the number of permits purchased. The
31 commission shall deliver the report to the senate secretary and the chief clerk of the house of

1 representatives not later than January 15, 2031, and notify the legislature that the report is
2 available.

3 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 NOTIFICATION TO LIEUTENANT GOVERNOR AND REVISOR OF
6 STATUTES. On the date the Alaska Commercial Fisheries Entry Commission certifies the
7 outcome of the election under sec. 6 of this Act, the chair of the Alaska Commercial Fisheries
8 Entry Commission shall provide written notice to the lieutenant governor and revisor of
9 statutes of the outcome of the election.

10 * **Sec. 10.** Sections 1, 2, 7, and 8 of this Act are repealed June 30, 2031.

11 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 CONDITIONAL EFFECT. Sections 1, 2, 7, and 8 of this Act take effect only if the
14 chair of the Alaska Commercial Fisheries Entry Commission certifies that the buy-back
15 program established under sec. 7 of this Act was approved under sec. 6 of this Act.

16 * **Sec. 12.** Section 3 of this Act takes effect January 1, 2025.

17 * **Sec. 13.** If secs. 1, 2, 7, and 8 of this Act take effect, they take effect the day after the date
18 the chair of the Alaska Commercial Fisheries Entry Commission certifies that the buy-back
19 program established under sec. 7 of this Act was approved under sec. 6 of this Act.

20 * **Sec. 14.** Except as provided in secs. 12 and 13 of this Act, this Act takes effect July 1,
21 2024.