

Original sponsor: Rules Committee by request
of the Governor

Offered: 4/25/77
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FCR SENATE BILL NO. 128 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to commercial fishing licensing; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 16.05.065 is amended to read:

10 Sec. 16.05.065. APPLICATION EXTENSION. (a) The commissioner
11 shall extend the time and dates during which application may be made for
12 fish or game [LICENSING OR] registration if he finds that

13 (1) the conservation and management of the fish or game
14 resource will not be affected adversely; and

15 (2) the failure to timely apply is the result of excusable
16 neglect.

17 (b) The fee for an extension granted under this section is \$45.

18 [UPON THE GRANTING OF AN EXTENSION TO AN APPLICANT AND UPON THE APPLI-
19 CANT'S COMPLIANCE WITH THIS CHAPTER, THE COMMISSIONER OF REVENUE OR HIS
20 AUTHORIZED DEPUTY SHALL ISSUE THE APPROPRIATE LICENSES AND TAGS.]

21 (c) As used in this section, "excusable neglect" does not include
22 unfamiliarity with or ignorance of applicable laws and regulations. In
23 order to show excusable neglect, a person must have demonstrated, before
24 the registration deadline, an intent to harvest fish or game. [THE FEE
25 FOR AN EXTENSION GRANTED UNDER THIS SECTION IS \$45.]

26 * Sec. 2. AS 16.05.450(a) is amended to read:

27 ARTICLE 4. LICENSING OF COMMERCIAL FISHING CREW-

28 MEMBERS [FISHERMEN], AND VESSELS [AND GEAR].

29 (a) The commissioner of revenue or his authorized agent [DEPUTY]

1 shall issue a crewmember fishing license under sec. 480 of this chapter
2 to each qualified person who files a written application at a place
3 [PLACES] in the state designated by the commissioner, containing the
4 reasonable information required by the commissioner together with the
5 required fee. The application shall be simple in form and shall be
6 executed by the applicant under the penalty of perjury.

7 * Sec. 3. AS 16.05.450(b) is repealed and re-enacted to read:

8 (b) The Commercial Fisheries Entry Commission shall issue a
9 vessel license under sec. 490 of this chapter to each qualified vessel
10 for which a written application has been filed at a place in the state
11 designated by the commission, containing the reasonable information
12 required by the commission together with the required fee. The applica-
13 tion shall be simple in form and shall be executed by the applicant
14 under the penalty of perjury.

15 * Sec. 4. AS 16.05.460 is amended to read:

16 Sec. 16.05.460. COMMISSIONER OF REVENUE MAY APPOINT AGENTS
17 [DEPUTIES]. The commissioner of revenue may appoint qualified persons
18 as his agents [DEPUTIES] to receive applications, issue licenses, and
19 collect license fees under secs. 440 - 480 [720] of this chapter, and to
20 assist in the completion of annual application or renewal forms for
21 interim-use permits and entry permits issued under ch. 43 of this title.

22 * Sec. 5. AS 16.05.470 is amended to read:

23 Sec. 16.05.470. FEE FOR ISSUANCE OF LICENSES AND INTERIM-USE OR
24 ENTRY PERMITS. (a) A person appointed and authorized by the commis-
25 sioner of revenue to sell licenses under secs. 440 - 480 [720] of this
26 chapter, except salaried employees of the state, shall retain the sum of
27 15 [FIVE] per cent of the fee for the issuance of a license. An agent
28 [A DEPUTY] shall transmit monthly to the commissioner all license fees
29 collected by him, less the authorized commission, together with a full

1 accounting of the fees. The commissioner shall make monthly remittances
2 of the fees collected to the proper state official. The commissioner is
3 not liable for defalcation or failure to account for the fees collected
4 by an agent [A DEPUTY], but he shall require a bond in the sum he con-
5 siders adequate, conditioned upon the faithful accounting of money
6 collected.

7 * Sec. 6. AS 16.05.470 is amended by adding a new subsection to read:

8 (b) A person appointed by the commissioner of revenue under sec.
9 460 of this chapter to issue licenses under secs. 440 - 480 of this
10 chapter, except salaried employees of the state, shall retain the sum
11 of 15 per cent of the interim-use or entry permit fee for assisting in
12 completion of the annual application or renewal form for the interim-use
13 or entry permit. An agent shall transmit promptly to the Commercial
14 Fisheries Entry Commission all application or renewal forms and fees
15 collected by him, less the authorized commission, together with a full
16 accounting of the fees. The commissioner and the Commercial Fisheries
17 Entry Commission are not liable for defalcation or failure to account
18 for the fees collected by an agent, but the commissioner shall require a
19 bond in the sum he considers adequate, conditioned upon the faithful
20 accounting of money collected.

21 * Sec. 7. AS 16.05 is amended by adding a new section to read:

22 Sec. 16.05.475. REGISTRATION OF FISHING VESSELS. (a) It is un-
23 lawful for any person to employ a fishing vessel in the water of Alaska
24 unless it is registered under the laws of the state. Vessels registered
25 under the laws of another state, and persons residing in another state,
26 are not excused from this provision.

27 (b) The term "employ", as used in this section, shall be defined
28 by the Board of Fisheries through the adoption of regulations under the
29 Administrative Procedure Act (AS 44.62). The definition may include any

1 activities involving the use or navigation of fishing vessels.

2 (c) The term "registered under the laws of the state", as used in
3 this section, shall be defined by the Board of Fisheries through the
4 adoption of regulations under the Administrative Procedure Act (AS 44.-
5 62). The definition may include any existing requirements regarding
6 registration, licenses, permits, and similar matters imposed by law or
7 regulation together with modifications of them and with any additional
8 requirements the board finds necessary to maximize the authority of the
9 state to apply and enforce fisheries regulations under the Fishery Con-
10 servation and Management Act of 1976 (P.L. 94-265, 90 Stat. 331, 16
11 U.S.C. 1801 et seq.).

12 (d) The term "fishing vessel", as used in this section, means any
13 vessel, boat, ship, or other craft which is used for, equipped to be
14 used for, or of a type which is normally used for

15 (1) fishing, or

16 (2) aiding or assisting one or more vessels at sea in the
17 performance of any activity relating to fishing, including, but not
18 limited to, preparation, supply, storage, refrigeration, transportation,
19 or processing.

20 * Sec. 8. AS 16.05.480 is amended to read:

21 Sec. 16.05.480. CREWMEMBER [COMMERCIAL] FISHING LICENSE. (a)

22 A commercial fisherman who does not hold a permit issued under ch. 43 of
23 this title [PERSON ENGAGED IN COMMERCIAL FISHING] shall obtain a crew-
24 member [COMMERCIAL] fishing license. The fee for the license is \$10 for
25 residents, and \$30 for nonresidents. All crewmember [COMMERCIAL] fish-
26 ing licenses are nontransferable and shall be retained in the possession
27 of the licensee, readily accessible for inspection at all times.

28 (b) A person applying for a resident crewmember [COMMERCIAL]
29 license under this section shall provide the proof of [HIS] residence

1 which the department requires by regulation.

2 (c) The commissioner of revenue or his authorized agent may issue
3 a duplicate crewmember fishing license as a replacement for a license
4 issued under (a) of this section. A fee of \$2 shall be charged for each
5 duplicate license and the duplicate may not be issued unless the commis-
6 sioner or his agent is satisfied that the original has been lost or
7 destroyed.

8 * Sec. 9. AS 16.05.520 is amended to read:

9 Sec. 16.05.520. NUMBER PLATE. (a) The vessel license includes a
10 permanent number plate. The number plate shall be accompanied by a tab
11 affixed to it designating the year to be fished. A number plate is not
12 transferable, and it shall be considered a permanent fixture upon the
13 vessel upon which it is originally placed. It shall be securely fas-
14 tened well forward on the port side in plain sight. On a vessel with a
15 superstructure the plate shall be fastened on the port side of the
16 superstructure. A number plate remains the property of the state. If
17 a permanent number plate is accidentally defaced, mutilated, destroyed,
18 or lost, the person owning or operating the vessel shall immediately
19 apply for and may obtain a duplicate upon furnishing the Commercial
20 Fisheries Entry Commission [DEPARTMENT OF REVENUE] with the pertinent
21 facts and a payment of \$2.

22 (b) If a vessel carrying a number plate is lost, destroyed, or
23 sold, the owner shall immediately report the loss, destruction, or sale
24 to the Commercial Fisheries Entry Commission [DEPARTMENT OF REVENUE].

25 * Sec. 10. AS 16.05.530 is amended to read:

26 Sec. 16.05.530. ANNUAL RENEWAL OF VESSEL LICENSE. Upon annual
27 payment of a license fee of \$20 [\$10 FOR A RESIDENT AND \$30 FOR A
28 NONRESIDENT], and filing of the name and address of the owner or his
29 authorized agent [AND OPERATOR] of the vessel, the name and number of

1 the vessel, a description of the vessel [AND FISHING GEAR], vessel
2 license number, if any, the area to be fished, and other reasonable
3 information required by the Commercial Fisheries Entry Commission
4 [DEPARTMENT OF REVENUE], the commission [DEPARTMENT OF REVENUE] shall
5 issue a number plate and a vessel license. If the vessel has a number
6 plate, the commission [DEPARTMENT OF REVENUE] shall issue a vessel
7 license and tab designating the year. The tab shall be placed in the
8 space provided on the permanent number plate.

9 * Sec. 11. AS 16.05.680 is amended to read:

10 Sec. 16.05.680. UNLAWFUL PURCHASES. It is unlawful for a person,
11 his agent, or his representative

12 (1) to have in his employ, in the harvesting, transporting
13 or purchasing of fish, a fisherman who neither is [NOT] licensed under
14 sec. 480 of this chapter nor is the holder of a permit issued under ch.
15 43 of this title,

16 (2) to purchase fish from a fisherman who neither is the
17 holder of a permit, issued under ch. 43 of this title, nor is exempt
18 under sec. 660 of this chapter [NOT SO LICENSED, IF THE FISHERMAN IS NOT
19 EXEMPT UNDER SEC. 660 OF THIS CHAPTER FROM THE LICENSE REQUIREMENT OF
20 SEC. 480 OF THIS CHAPTER WITHOUT REGARD TO THE EMPLOYMENT OR PURCHASE],
21 or

22 (3) to purchase fish from an association other than one to
23 which a permit has been issued [WHICH IS NOT EXEMPT] under sec. 662 of
24 this chapter.

25 * Sec. 12. AS 16.05.940(2) is amended to read:

26 (2) "commercial fisherman" means an individual who fishes
27 commercially for, takes, or attempts to take fish; shellfish, or other
28 fishery resources of the state by any means, and includes every indi-
29 vidual aboard a boat operated for fishing purposes who participates

1 directly or indirectly in the taking of these raw fishery products,
2 whether participation is on shares or as an employee or otherwise;
3 however, this definition does not apply to anyone aboard a licensed
4 vessel as a visitor or guest who does not directly or indirectly parti-
5 cipate in the taking, [OR TO THE SPOUSE OF A COMMERCIAL FISHERMAN WHO
6 DOES NOT RECEIVE INCOME SEPARATE AND DISTINCT FROM THAT OF THE COMMER-
7 CIAL FISHERMAN SPOUSE AS A RESULT OF THE SPOUSE'S PARTICIPATION]; and
8 the term "commercial fisherman" includes the crews of tenders or other
9 floating craft used in transporting fish;

10 * Sec. 13. AS 16.10.310(a)(1)(A) is amended to read:

11 (A) individual commercial fishermen who have been state
12 residents for a continuous period of five years and have had a
13 crewmember or commercial fishing license under AS 16.05.480 or a
14 permit under ch. 43 of this title for three years, for the repair,
15 restoration or upgrading of existing vessels and gear, [AND] for
16 the purchase of entry permits and gear, and for the construction
17 and purchase of vessels; and

18 * Sec. 14. AS 16.43.100(a) is amended by adding a new paragraph to read:

19 (14) administer the issuance of commercial fishing vessel
20 licenses under AS 16.05.490.

21 * Sec. 15. AS 16.43.160 is amended to read:

22 Sec. 16.43.160. FEES. (a) The commission shall establish annual
23 fees for the issuance and annual renewal of entry permits or interim-use
24 permits [TO REFLECT THE COST OF ADMINISTERING THIS CHAPTER]. Fees
25 collected under this section shall be paid into the general fund,
26 except for an amount equal to 60 per cent of the fee each permit holder
27 would otherwise be obligated to pay for a crewmember license under sec.
28 480 of this chapter which shall be paid into the Fishermen's Fund under
29 AS 23.35.060.

1 (b) Annual fees established under this section shall be no less
2 than \$10 and no more than \$750 [\$100] and shall reasonably reflect the
3 different rates of economic return for different fisheries.

4 (c) The resident holder of an entry permit or interim-use permit
5 who has a net family income falling within the Federal Community Ser-
6 VICES [SOCIAL SECURITY] Administration poverty guidelines, adjusted by
7 the commission to reflect appropriate cost-of-living differentials, is
8 subject to a maximum annual fee of \$15 [\$5].

9 * Sec. 16. AS 23.35.060 is amended to read:

10 Sec. 23.35.060. CREATION AND ADMINISTRATION OF FISHERMEN'S FUND.
11 There is created a fund, designated as the "Fishermen's Fund." The
12 Department of Revenue is the custodian of the fund and the Department of
13 Labor shall administer it. The fund shall be composed of 60 per cent of
14 the money derived by the state from each crewmember fishing license
15 issued under AS 16.05.480, an equal amount of the money derived by the
16 state from each commercial fisherman who is issued a permit under AS
17 16.43 [ALL COMMERCIAL FISHERMEN'S LICENSES, INCLUDING CLAM DIGGERS'
18 LICENSES], and money appropriated to carry out the purpose of secs. 10 -
19 150 of this chapter.

20 * Sec. 17. AS 23.35.150(4) is amended to read:

21 (4) "fisherman" means a person who is licensed by the state
22 to engage in commercial fishing under AS 16.05.480 or who is the holder
23 of a permit issued under AS 16.43 and who, at the time injury is sus-
24 tained or illness is contracted, is actually so engaged or is occupied
25 in Alaska in preparing or dismantling boats or gear used in commercial
26 fishing;

27 * Sec. 18. AS 44.25.020(2) is amended to read:

28 (2) collect, account for, have custody of, invest, and
29 manage all state funds and all revenues of the state except revenues

1 incidental to a program of licensing and regulation carried on by
2 another state department, except that the Department of Revenue shall
3 issue fish and game licenses other than vessel licenses under AS 16.05.-
4 490 - 16.05.530, collect fish and game license revenues, other than
5 revenues from vessel licenses under AS 16.05.490 - 16.05.530, and do all
6 other acts incidental to the performance of these functions;

7 * Sec. 19. AS 16.05.450(c), 16.05.490(b), (c), (d), and (e), 16.05.500,
8 16.05.540 - 16.05.650, and 16.05.670 are repealed.

9 * Sec. 20. Section 7 of this Act takes effect immediately in accordance
10 with AS 01.10.070(c). Sections 1 - 6 and 8 - 19 of this Act take effect
11 January 1, 1978.

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