

Introduced: 1/19/78  
Referred: Resources

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 *HCS* SENATE BILL NO. 428 *AM (Judiciary)*  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to commercial fishing interim-use  
7 permits, entry permits, and vessel licenses."

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

9 \* Section 1. AS 16.43.180(a) is repealed and re-enacted to read:

10 (a) The commission shall adopt regulations providing for the  
11 temporary emergency transfer of entry permits and interim-use permits  
12 when illness, disability, death, or other unavoidable hardship prevents  
13 the permit holder from participating in the fishery. To alleviate  
14 hardship pending a final determination of the permit holder's eligibil-  
15 ity for an entry permit, the commission shall adopt regulations provid-  
16 ing for the temporary emergency transfer of an interim-use permit under  
17 sec. 210(b) of this chapter.

18 \* Sec. 2. AS 16.43 is amended by adding a new section to read:

19 Sec. 16.43.355. COMMISSION REVOCATION OF ENTRY PERMITS. (a) The  
20 commission may revoke an entry permit if a person knowingly supplies,  
21 assists in supplying, or fails to correct false information provided to  
22 the commission for the purpose of

23 (1) permit application; or

24 (2) permit transfer.

25 (b) Before revocation, the commission shall serve the permit  
26 holder personally or by certified or registered mail with a notice to  
27 show cause why the proposed action should not take place. The notice to  
28 show cause must

29 (1) be supported by an affidavit which may be made on infor-

1 mation or belief setting out the facts which are the basis of the pro-  
2 posed action;

3 (2) provide for at least 30 days notice of the place, date,  
4 and time of the hearing where the permit holder may present evidence in  
5 opposition to the proposed action;

6 (3) specify the statutes or regulations violated;

7 (4) state with particularity the action proposed to be taken;

8 (5) indicate to the permit holder that his ability to per-  
9 manently transfer the permit which is the subject of the revocation  
10 proceedings has been suspended as of the date of the notice and will  
11 continue to be suspended until the exhaustion of all administrative and  
12 judicial remedies; and

13 (6) other information the commission considers proper.

14 (c) A permit subject to revocation proceedings under this section  
15 may not be permanently transferred after the date of the notice in (b)  
16 of this section pending exhaustion of all administrative and judicial  
17 remedies arising from action taken under this section.

18 (d) The revocation hearing shall be conducted before a quorum of  
19 commissioners and shall be presided over by a properly appointed hearing  
20 officer who shall rule on the presentation of evidence and other pro-  
21 cedural matters. Within a reasonable time after the conclusion of the  
22 hearing, the hearing officer shall submit to the attending commissioners  
23 a proposed decision based on the record of the hearing and containing  
24 findings of fact, conclusions of law, and recommended action. The  
25 attending commissioners shall then review the hearing officer's proposed  
26 decision and adopt or amend or reject the contents of the proposed  
27 decision in the written decision of the commission. A copy of the  
28 commission decision shall be mailed to each party or his attorney by  
29 certified or registered mail.

1 (e) The failure of a permit holder properly served under (b) of  
2 this section to appear at the hearing is not grounds for setting aside  
3 any commission action taken. However, the commission may in its discre-  
4 tion order a continuance or second hearing.

5 (f) The effective date of the commission decision under this  
6 section is the date of the notice to show cause first served upon the  
7 permit holder.

8 (g) The provisions of this section do not apply to the permit of  
9 a person who is a bona fide purchaser.

10 (h) Judicial review of a commission determination under this  
11 section may be had in accordance with AS 44.62.560 - 44.62.570.

12 \* Sec. 3. AS 16.43.360(a) is amended to read:

13 (a) A person who wilfully violates or assists in the violation of  
14 a provision of this chapter or a regulation promulgated under this  
15 chapter is, upon conviction, [IS] guilty of a misdemeanor and is punish-  
16 able by a fine of not more than \$5,000 for a first conviction, and  
17 [;] a fine of not more than \$10,000 for a second or third conviction [;  
18 AND, FOR A THIRD CONVICTION, A FINE OF NOT MORE THAN \$10,000 AS WELL AS  
19 FORFEITURE OF ALL INTERIM-USE PERMITS AND ENTRY PERMITS HELD BY HIM AND  
20 PERMANENT LOSS OF ELIGIBILITY FOR INTERIM-USE PERMITS OR FOR ENTRY  
21 PERMITS]. Upon a third conviction, the person shall forfeit all interim-  
22 use and entry permits held by him and loses eligibility for future  
23 issuance or transfer of interim-use or entry permits. Upon a first or  
24 second conviction under this section, the court may in its discretion  
25 order a forfeiture of interim-use or entry permits held by him as well  
26 as a loss of eligibility for future issuance or transfer of interim-use  
27 or entry permits or order a suspension of fishing rights under interim-  
28 use or entry permits held or to be held by him for a period of not more  
29 than three years.

1 \* Sec. 4. AS 16.43.360(b) is amended to read:

2 (b) A person who wilfully makes a false statement of [A MATERIAL]  
3 fact in the application for or renewal of an interim-use permit or an  
4 entry permit or vessel license application or renewal or in the appli-  
5 cation for a transfer under secs. 170 - 180 of this chapter, or a person  
6 who assists another by wilfully making a false statement of [A MATERIAL]  
7 fact in support of the other person's application for issuance or re-  
8 newal of an interim-use permit or an entry permit or vessel license  
9 [TRANSFER OF AN ENTRY PERMIT, UPON CONVICTION,] is guilty of a misde-  
10 meanor and shall forfeit all interim-use permits and entry permits held  
11 by him and shall lose eligibility for interim-use permits and for entry  
12 permits for a period of five years and is punishable by a fine of not  
13 more than \$5,000.