

Introduced: 1/19/78  
Referred: Resources

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 SENATE BILL NO. 428 am

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 AS 16.43.180(a) is repealed and re-enacted to read: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 materially false information  
22 provided to 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. The hearing place shall be held  
6 within the Judicial District in which the permit holder resides for  
7 those residing in the state of Alaska. The hearing place shall be at  
8 the discretion of the commission for those permit holders residing  
9 outside the state of Alaska;

10 (3) specify the statutes or regulations violated;

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

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

17 (6) other information the commission considers proper.

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

22 (d) The revocation hearing shall be conducted before a quorum of  
23 commissioners and shall be presided over by a properly appointed hearing  
24 officer who shall rule on the presentation of evidence and other pro-  
25 cedural matters. Within a reasonable time after the conclusion of the  
26 hearing, the hearing officer shall submit to the attending commissioners  
27 a proposed decision based on the record of the hearing and containing  
28 findings of fact, conclusions of law, and recommended action. The  
29 attending commissioners shall then review the hearing officer's proposed

1 decision and adopt or amend or reject the contents of the proposed  
2 decision in the written decision of the commission. A copy of the  
3 commission decision shall be mailed to each party or his attorney by  
4 certified or registered mail.

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

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

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

14 (h) The permit holder may appeal to the superior court for, and is  
15 entitled to, trial de novo of the board's action. Either party to the  
16 appeal may demand a jury trial.

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

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

1 of interim-use or entry permits held by him as well as a loss of eligi-  
2 bility for future issuance or transfer of interim-use or entry permits  
3 or order a suspension of fishing rights under interim-use or entry  
4 permits held or to be held by him for a period of not more than three  
5 years.

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

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

19 \* Sec. 5. AS 16.43.360 is amended by adding a new subsection to read:

20 (e) Notwithstanding any other provision of this section, no  
21 interim-use or entry permit may be transferred while under suspension,  
22 without the consent of the commission.  
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