

Original sponsor: Resources Committee

Offered: 4/18/78
Referred: Judiciary

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 428

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 AS 16.43.180(a) is repealed and re-enacted to read: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, required military or government ser-
13 vice, or other unavoidable hardship prevents the permit holder from
14 participating in the fishery. To alleviate hardship pending a final
15 determination of the permit holder's eligibility for an entry permit,
16 the commission shall adopt regulations providing for the temporary
17 emergency transfer of an interim-use permit under sec. 210(b) of this
18 chapter.

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

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

24 (1) permit application; or

25 (2) permit transfer.

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

1 (1) be supported by an affidavit which may be made on infor-
2 mation or belief setting out the facts which are the basis of the pro-
3 posed action;

4 (2) provide for at least 30 days notice of the place, date,
5 and time of the hearing where the permit holder may present evidence in
6 opposition to the proposed action. Unless waived in writing by the per-
7 mit holder, the hearing place shall be held within the Judicial District
8 in which the permit holder resides for those residing in the state of
9 Alaska. The hearing place shall be at the discretion of the commission
10 for those permit holders residing outside the state of Alaska;

11 (3) specify the statutes or regulations violated;

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

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

18 (6) other information the commission considers proper.

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

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

1 attending commissioners shall then review the hearing officer's proposed
2 decision and adopt or amend or reject the contents of the proposed
3 decision in the written decision of the commission. A copy of the
4 commission decision shall be mailed to each party or his attorney by
5 certified or registered mail.

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

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

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

15 (h) Judicial review of commission determinations under this sec-
16 tion is in accordance with AS 44.62.560 - 44.62.570; however, if a
17 hearing de novo is granted under AS 44.62.570(d), the hearing may, in
18 the discretion of the court, be had with a jury sitting if application
19 for the jury hearing is filed with the court no later than 10 days after
20 service of the notice of appeal.

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

22 (a) A person who violates or assists in the violation of a provi-
23 sion of this chapter or a regulation promulgated under this chapter is,
24 upon conviction, [IS] guilty of a misdemeanor and is punishable by a
25 fine of not more than \$5,000 for a first conviction, and [;] a fine of
26 not more than \$10,000 for a second or third conviction [; AND, FOR A
27 THIRD CONVICTION, A FINE OF NOT MORE THAN \$10,000 AS WELL AS FORFEITURE
28 OF ALL INTERIM-USE PERMITS AND ENTRY PERMITS HELD BY HIM AND PERMANENT
29 LOSS OF ELIGIBILITY FOR INTERIM-USE PERMITS OR FOR ENTRY PERMITS].

1 Upon a third conviction, the person shall forfeit all interim-use and
2 entry permits held by him and loses eligibility for future issuance or
3 transfer of interim-use or entry permits for a period of three years.

4 Upon a first or second conviction under this section, the court may in
5 its discretion order a forfeiture of interim-use or entry permits held
6 by him as well as a loss of eligibility for future issuance or transfer
7 of interim-use or entry permits or order a suspension of fishing rights
8 under interim-use or entry permits held or to be held by him for a
9 period of not more than three years.

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

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

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

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