

Original sponsor: Resources Committee

Offered: 6/14/78  
For Today's Supplemental  
Calendar

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 428 (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 licenses, in-  
7 terim-use permits, entry permits, and vessel licenses;  
8 and providing for an effective date."

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

10 \* Section 1. AS 16.05.480(a) is repealed and re-enacted to read:

11 (a) A person engaged in commercial fishing shall obtain a commer-  
12 cial fishing license. The fee for the license is \$10 for residents, and  
13 \$30 for nonresidents. Except for those which are also entry or interim-  
14 use permits, all commercial fishing licenses are nontransferable. The  
15 commercial fishing license shall be retained in the possession of the  
16 licensee, readily accessible for inspection at all times. No more than  
17 one fee may be charged annually against a person. For the purposes of  
18 this section, "commercial fishing license" includes entry permits and  
19 interim-use permits issued under ch. 43 of this title and crewmember  
20 fishing licenses.

21 \* Sec. 2. AS 16.05.480(b) is amended to read:

22 (b) A person applying for a resident commercial [CREWMEMBER]  
23 license under this section shall provide the proof of residence which  
24 the department requires by regulation.

25 \* Sec. 3. AS 16.43.100 is amended by adding a new paragraph to read:

26 (15) issue educational entry permits to applicants who qualify  
27 under the provisions of secs. 390 - 440 of this chapter.

28 \* Sec. 4. AS 16.43.160(a) is repealed and re-enacted to read:

29 (a) The commission shall establish annual fees for the issuance

1 and annual renewal of entry permits or interim-use permits. The amount  
2 paid by a permit holder under the provisions of AS 16.05.480 shall be  
3 credited by the commission toward payment of the fee charged under this  
4 section. No more than one credit may be obtained annually by a person.

5 \* Sec. 5. AS 16.43.180(a) is repealed and re-enacted to read:

6 (a) The commission shall adopt regulations providing for the  
7 temporary emergency transfer of entry permits and interim-use permits  
8 when illness, disability, death, required military or government ser-  
9 vice, or other unavoidable hardship prevents the permit holder from  
10 participating in the fishery. To alleviate hardship pending a final  
11 determination of the permit holder's eligibility for an entry permit,  
12 the commission shall adopt regulations providing for the temporary  
13 emergency transfer of an interim-use permit issued under sec. 210(b) of  
14 this chapter.

15 \* Sec. 6. AS 16.43 is amended by adding a new section to read:

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

- 20 (1) permit application; or  
21 (2) permit transfer.

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

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

- 29 (2) provide for at least 30 days notice of the place, date,

1 and time of the hearing where the permit holder may present evidence in  
2 opposition to the proposed action. Unless waived in writing by the  
3 permit holder, the hearing place shall be held within the judicial  
4 district in which the permit holder resides if the permit holder resides  
5 in the state. The hearing place shall be at the discretion of the  
6 commission for those permit holders residing outside the state;

7 (3) specify the statutes or regulations violated;

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

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

14 (6) provide other information the commission considers  
15 proper.

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

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

1 institutions, career or vocational programs approved by the Alaska  
2 Commission on Postsecondary Education, or full-time nonprofit residen-  
3 tial child care facilities licensed by the Department of Health and  
4 Social Services, division of social services, if

5 (1) the program is offered to students at the junior high  
6 school level or above;

7 (2) the issuance of an educational entry permit is reasonably  
8 necessary to the instruction of students under courses offered by the  
9 applicant for the educational entry permit;

10 (3) the program is offered by an institution which is located  
11 in the state and has been in operation for at least two years; and

12 (4) the institution offering the program is not a correspon-  
13 dence institution.

14 (b) An educational entry permit may only be used in a program  
15 conducted by the recipient of the permit for the purpose of training  
16 students in the methods of commercial fishing.

17 (c) The commission may issue educational entry permits notwith-  
18 standing the establishment of maximum or optimum numbers under secs. 240  
19 and 290 of this chapter.

20 Sec. 16.43.400. TERM AND CONDITIONS OF EDUCATIONAL ENTRY PERMIT.

21 (a) Educational entry permits may be applied for on an annual basis and  
22 shall be issued for a term of one year. The permits are nontransfer-  
23 able.

24 (b) A recipient may be issued an educational entry permit for each  
25 fishery in the administrative area the commission determines to be  
26 appropriate, considering the nature of the educational program and the  
27 location of the educational or vocational institution. The recipient of  
28 an educational entry permit may not be issued educational entry permits  
29 in more than one administrative area except as issued by the commission

1 in its discretion upon good cause shown.

2 (c) An educational entry permit issued under sec. 390 of this  
3 chapter may be used by any agent or employee authorized by the recipient  
4 of the educational entry permit.

5 (d) Annual fees for educational entry permits shall be as speci-  
6 fied by commission regulation under the authority of sec. 160 of this  
7 chapter.

8 Sec. 16.43.410. DISPOSITION OF FISH. Fish caught under the autho-  
9 rity of an educational entry permit are the property of the recipient of  
10 the permit. The recipient may sell the fish and use the proceeds to pay  
11 for the costs of the training program. Revenues generated from the sale  
12 of fish harvested under an educational entry permit shall be paid to the  
13 general fund to the extent the revenues exceed costs of the training  
14 program.

15 Sec. 16.43.420. ACCOUNTING OF HARVEST. The recipient of an edu-  
16 cational entry permit shall report to the commission costs and earnings,  
17 amount of harvest, and other information the commission requires to  
18 monitor training programs of recipients of educational entry permits.

19 Sec. 16.43.430. ADOPTION OF REGULATIONS. (a) Use privileges  
20 granted under secs. 390 - 440 of this chapter are subject to the regu-  
21 lations of the Board of Fisheries which may adopt regulations exclu-  
22 sively applicable to the use of educational entry permits.

23 (b) The commission shall publish regulations relating to the  
24 issuance of educational entry permits, establishing eligibility criteria  
25 for recipients of the permits, and such other matters as are reasonably  
26 necessary to implement secs. 390 - 440 of this chapter.

27 Sec. 16.43.440. DEFINITION. For the purposes of secs. 390 - 430  
28 of this chapter, the term "recipient" means the entity to which an  
29 educational entry permit is issued.

1 \* Sec. 11. AS 23.35.060 is amended to read:

2 Sec. 23.35.060. CREATION AND ADMINISTRATION OF FISHERMEN'S FUND.

3 There is created a fund, designated as the "fishermen's fund." The  
4 Department of Revenue is the custodian of the fund and the Department of  
5 Labor shall administer it. The fund shall be composed of 60 per cent of  
6 the money derived by the state from all commercial fishermen's licenses  
7 [EACH CREWMEMBER FISHING LICENSE ISSUED UNDER AS 16.05.480, AN EQUAL  
8 AMOUNT OF MONEY DERIVED BY THE STATE FROM EACH COMMERCIAL FISHERMAN WHO  
9 IS ISSUED A PERMIT UNDER AS 16.43,] and money appropriated to carry out  
10 the purpose of secs. 10 - 150 of this chapter.

11 \* Sec. 12. AS 16.05.480(c) is repealed.

12 \* Sec. 13. Sections 1, 2, 4, and 11 of this Act are retroactive to  
13 January 1, 1978.

14 \* Sec. 14. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).