

Original sponsors: Duncan and Eliason

Offered: 4/23/80
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

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CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 350

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to limited entry permits for the hand-
7 trolling fishery."

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

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* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

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(1) The salmon handtrolling fishery is unique because of the large

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number of participants in the fishery, its marginal profitability, the high

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rate of turnover of participants in the fishery, the use of the fishery by

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participants for entry into the commercial fishing industry, and the use of

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the fishery by participants to generate supplemental income;

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(2) the establishment of nontransferable entry permits will allow

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entry into the handtrolling fishery without allowing market prices to develop

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for the entry permits;

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(3) the low capital cost of entering the handtrolling fishery will

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encourage people who lack experience in commercial fishing and who lack the

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desire to make commercial fishing a substantial part of their livelihood to

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apply for entry permits for handtrolling; therefore, in order to promote

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safety among those who receive entry permits for handtrolling and to prevent

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economic distress among fishermen, it is appropriate to include in the cri-

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teria for ranking applicants for entry permits for handtrolling considera-

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tions relating to past participation in the handtrolling fishery and ex-

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perience as a crewmember in the waters where handtrolling is regulated.

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(b) The purpose of this Act is to preserve the unique nature of the

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salmon handtrolling fishery and to avoid market prices for entry permits

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issued for the handtrolling fishery by allowing a large number of partici-

1 pants in the fishery, by allowing a continued high rate of turnover among the
2 participants and by preventing transferability of entry permits issued for
3 the handtrolling fishery.

4 * Sec. 2. AS 16.43.150(h) is amended to read:

5 (h) Except as provided in (i) of this section, upon [UPON] the
6 death of an entry permit holder, the entry [PERMANENT] permit shall be
7 transferred by the commission directly to the surviving spouse by right
8 of survivorship unless a contrary intent is manifested. When no spouse
9 survives, the rights of the decedent pass as part of his estate.

10 * Sec. 3. AS 16.43.150 is amended by adding new subsections to read:

11 (i) An entry permit issued for the handtrolling fishery shall be
12 forfeited to the commission

13 (1) upon the death of the permit holder unless the permit
14 holder has designated an individual under AS 16.43.181;

15 (2) upon failure of the permit holder to verify significant
16 active participation in the handtrolling fishery each season to the
17 commission in accordance with regulations adopted by the commission,
18 unless the failure is waived by the commission for good cause.

19 (j) The commission shall prepare an application form for a waiver
20 for good cause under (i)(2) of this section and shall distribute the
21 application form to each holder of an entry permit for the handtrolling
22 fishery. The commission shall include with the application form a
23 statement explaining "good cause" for the purpose of (i)(2) of this
24 section.

25 (k) An entry permit issued for the handtrolling fishery may be
26 voluntarily transferred to the commission, without compensation.

27 (l) In (i) of this section,

28 (1) "significant active participation" shall be defined by
29 regulation of the commission as a minimum number of verified landings of

1 fish caught by handtrolling; the regulations may require not less than
2 three landings nor more than 10 landings in each season;

3 (2) "good cause" means the inability of the permit holder to
4 actively participate in the fishery as a result of serious injury or
5 illness of the permit holder, the loss of the use of the permit holder's
6 fishing vessel as a result of sinking, destruction or extensive mechanical
7 breakdown, or service in the military.

8 * Sec. 4. AS 16.43.170(b) is amended to read:

9 (b) Except as provided in (c) and (e) of this section, the holder
10 of an entry permit may transfer his permit to another person or to the
11 commission upon 60 days notice of intent to transfer under regulations
12 adopted by the commission. No sooner than 60 days nor later than 12
13 months from the date of notice to the commission, the holder of an entry
14 permit may transfer his permit. If the proposed transferee, other than
15 the commission, can establish present ability to participate actively in
16 the fishery, the commission shall approve the transfer and reissue the
17 entry permit to the transferee.

18 * Sec. 5. AS 16.43.170 is amended by adding a new subsection to read:

19 (e) Notwithstanding the provisions of (a) - (c) of this section,
20 an entry permit for the handtrolling fishery is transferable only to the
21 commission, except as provided in AS 16.43.180(a).

22 * Sec. 6. AS 16.43.180(b) is amended to read:

23 (b) The commission shall adopt regulations providing for the
24 temporary transfer of an entry permit issued for any fishery except the
25 handtrolling fishery upon the death of the permittee pending final
26 disposition of the permit as a part of the permittee's estate.

27 * Sec. 7. AS 16.43 is amended by adding a new section to read:

28 Sec. 16.43.181. DESIGNATION OF INDIVIDUAL BY HOLDER OF ENTRY
29 PERMIT FOR HANDTROLLING. (a) The commission shall allow an applicant

1 for or a holder of an entry permit for handtrolling to designate in his
2 application and in each renewal of the entry permit the individual to
3 whom the entry permit shall be reissued in the event of his death. The
4 commission shall immediately reissue the permit, upon the death of the
5 permit holder, to the individual designated by the permit holder under
6 this section.

7 (b) In an application form or a renewal form for an entry permit
8 for handtrolling, the commission shall include a statement that an
9 individual designated under (a) of this section is required to demon-
10 strate present ability to participate in the handtrolling fishery at the
11 time of the permit holder's death to receive a permit under (a) of this
12 section.

13 * Sec. 8. AS 16.43 is amended by adding a new section to read:

14 Sec. 16.43.274. ISSUANCE AND REISSUANCE OF HANDTROLLING PERMITS.

15 (a) The commission may not issue an entry permit for the handtrolling
16 fishery unless the applicant has demonstrated his present ability to
17 participate actively in the handtrolling fishery under regulations
18 adopted by the commission.

19 (b) An entry permit for the handtrolling fishery which is for-
20 feited to the commission under AS 16.43.150(d) or (i) or 16.43.360,
21 transferred to the commission under AS 16.43.150(j) or revoked by the
22 commission under AS 16.43.355, shall be promptly reissued by the com-
23 mission to an applicant who

24 (1) applied for an entry permit for the handtrolling fishery
25 during the initial application period established under AS 16.43.260(b);

26 (2) harvested fishery resources commercially while partici-
27 pating in the handtrolling fishery as a holder of a gear license or an
28 interim-use permit before the qualification date established under
29 AS 16.43.260(e);

1 (3) demonstrates present ability to participate in the hand-
2 trolling fishery; and

3 (4) was not previously issued an entry permit for the hand-
4 trolling fishery.

5 (c) Entry permits shall be reissued under (b) of this section to
6 applicants in order of descending priority classification as provided in
7 AS 16.43.270(a).

8 (d) If within the lowest priority classification of applicants to
9 whom entry permits for the handtrolling fishery may be reissued under
10 (b) of this section, there are more applicants than there are entry
11 permits to be reissued, the allocation of entry permits within that
12 priority classification shall be by lottery.

13 (e) After all the applicants described in (b) of this section have
14 been issued entry permits for the handtrolling fishery, the commission
15 shall establish annual application periods for the reissuance of entry
16 permits for the handtrolling fishery.

17 (f) The commission shall adopt regulations to rank applicants who
18 apply for an entry permit for handtrolling during an application period
19 established under (e) of this section. The regulations shall define
20 priority classifications of similarly situated applicants based on a
21 reasonable balance of the following hardship standards:

22 (1) availability of alternative occupations;

23 (2) past participation in the handtrolling fishery;

24 (3) demonstrated need for alternative sources of income,
25 taking into consideration the applicant's gross income, age, number of
26 dependents and other factors;

27 (4) commercial fishing experience, including experience as a
28 crewmember, in the area of the handtrolling fishery.

29 (g) After ranking the applicants under (f) of this section, the

1 commission shall promptly reissue entry permits for the handtrolling
2 fishery which are forfeited to it under AS 16.43.150(d) or (i) or
3 16.43.360, transferred to it under AS 16.43.150(j), or revoked by it
4 under AS 16.43.355, and which are not withheld by the commission to
5 reduce the number of outstanding entry permits to the optimum number
6 established under AS 16.43.290 - 16.43.300. The commission shall re-
7 issue the entry permits to the applicants in order of descending prior-
8 ity classification until the next application period or until all the
9 applicants have received an entry permit for the handtrolling fishery.

10 (h) Notwithstanding (e) of this section, if the commission re-
11 issues entry permits for the handtrolling fishery to all the applicants
12 who applied during the most recent application period before the sche-
13 duled time for the next application period, the commission shall prompt-
14 ly open a new application period in place of the next scheduled applica-
15 tion period.

16 (i) An application for the reissuance of an entry permit for
17 handtrolling lapses at the time a new application period is opened under
18 (e) or (h) of this section.

19 (j) If, upon appeal under AS 44.62.560 of a final action of the
20 commission on an application made during an application period estab-
21 lished under (e) of this section, a final judgment of the superior court
22 is entered which requires the commission to rank the appellant in a
23 priority classification which would have entitled the appellant to
24 receive an entry permit in the year in which he made the application,
25 the commission shall issue the appellant an entry permit in the appli-
26 cation period immediately following the entry of the final judgment.
27 The number of entry permits available for reissuance under (g) of this
28 section shall be reduced by the number of entry permits issued in accor-
29 dance with this subsection.

1 * Sec. 9. AS 16.43.300(b) is amended to read:

2 (b) If the commission decreases the optimum number of entry per-
3 mits for a fishery, other than the handtrolling fishery, the number of
4 entry permits may be reduced only under the voluntary buy-back provi-
5 sions set out in AS 16.43.310 - 16.43.320.

6 * Sec. 10. AS 16.43.300 is amended by adding a new subsection to read:

7 (c) The commission may review and adjust the optimum number of
8 entry permits for the handtrolling fishery at four-year intervals. If
9 the optimum number of entry permits for the handtrolling fishery exceeds
10 the maximum number of entry permits established under AS 16.43.240, the
11 commission shall issue additional entry permits in accordance with the
12 procedure described in AS 16.43.274.

13 * Sec. 11. The Alaska Commercial Fisheries Entry Commission shall prepare
14 and submit a report to the Fourteenth Legislature by February 10, 1985. The
15 report shall include the commission's comments and recommendations relating
16 to the implementation of this Act. If, between the effective date of this
17 Act and January 1, 1985, the average annual number of entry permits reissued
18 under AS 16.43.274 is less than 25 percent of the total number of entry
19 permits for the handtrolling fishery issued under AS 16.43, the Alaska
20 Commercial Fisheries Entry Commission shall include in its report recommenda-
21 tions for legislation to increase the rate of reissuing entry permits for the
22 handtrolling fishery.

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