

Introduced: 4/21/80
Referred: Resources

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 HOUSE BILL NO. 1015

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to recovery entry permits."

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

8 * Section 1. FINDINGS. The legislature finds that

9 (1) since 1975 the biological condition of certain salmon fisheries
10 have significantly recovered, and market conditions affecting certain salmon
11 fisheries have significantly improved;

12 (2) in certain salmon fisheries, these improved conditions will
13 apparently continue for at least several more fishing seasons;

14 (3) whether the duration of these improved conditions will be long
15 enough to allow the issuance of new entry permits under AS 16.43.330 is
16 unknown;

17 (4) it is consistent with the objectives of AS 16.43 to authorize
18 the operation of additional units of gear in the salmon fisheries where these
19 improved conditions exist as long as the improved conditions exist;

20 (5) many individuals who are currently engaged in commercial
21 fishing as crewmembers have not been able to obtain an entry permit under
22 AS 16.43.170(b).

23 * Sec. 2. POLICY. It is the policy of the state to promote the conserva-
24 tion and sustained yield management of Alaska's fishery resource and the
25 economic health and stability of the commercial fisheries in the public
26 interest and without unjust discrimination.

27 * Sec. 3. PURPOSE. The purpose of this Act is to provide for the issuance
28 of recovery entry permits for those fisheries where biological conditions
29 have significantly recovered and market conditions have significantly improved

1 so that the fishery is able to sustain the operation of additional units of
2 gear during the time that the biological conditions have significantly re-
3 covered and the market conditions have significantly improved.

4 * Sec. 4. AS 16.43 is amended by adding new sections to read:

5 ARTICLE 5B. RECOVERY ENTRY PERMITS.

6 Sec. 16.43.344. APPLICATION FOR AND ISSUANCE OF RECOVERY ENTRY
7 PERMITS. (a) The commission may issue recovery entry permits for a
8 fishery in accordance with this section if it determines the fishery is
9 recovered in accordance with (b) of this section.

10 (b) The commission shall designate a fishery as a recovered
11 fishery if it determines that

12 (1) the biological condition of the fishery has significantly
13 improved since the time entry permits for the fishery were initially
14 issued under AS 16.43.270;

15 (2) the market conditions affecting the fishery have signifi-
16 cantly improved since the time entry permits for the fishery were ini-
17 tially issued under AS 16.43.270; and

18 (3) it appears reasonably likely that the improvements des-
19 cribed in (1) and (2) of this subsection will continue to exist for the
20 near future.

21 (c) The commission shall determine the number of recovery entry
22 permits to be issued for a fishery based on a reasonable balance of the
23 following considerations:

24 (1) the degree to which the fishery has recovered under the
25 standards described in (b) of this section; and

26 (2) the general standards described in AS 16.43.290(1) - (3)
27 as they apply to holders of entry permits in the fishery and to indivi-
28 duals who will receive recovery entry permits for the fishery.

29 (d) In determining the number of recovery entry permits to be

1 issued for a fishery, the commission shall consult with the Department
2 of Fish and Game.

3 (e) The commission shall declare recovery entry permits for a
4 fishery available for issuance if the number of recovery entry permits
5 the commission determines to be issued for the fishery is at least 25 or
6 is equal to at least 10 percent of the number of outstanding entry
7 permits for the fishery, whichever is less.

8 (f) The commission shall establish the opening and closing dates,
9 places and form of application for the issuance of recovery entry
10 permits. The commission may require the submission of specific verified
11 evidence establishing the applicant's qualifications for a recovery
12 entry permit.

13 (g) If an applicant is unable to establish his qualifications for
14 a recovery entry permit by submitting specific verified evidence
15 required in the application by the commission, he may request and obtain
16 an administrative adjudication of his application in accordance with the
17 procedures established in AS 16.43.110(b). At the hearing, the appli-
18 cant may present alternative evidence of his qualifications for a
19 recovery entry permit.

20 (h) The commission may accept applications for recovery entry
21 permits only from applicants who

22 (1) have harvested the fishery resource commercially in the
23 fishery before the date established in (j) of this section;

24 (2) were not eligible to apply for an entry permit for the
25 fishery under AS 16.43.260; and

26 (3) have not held an entry permit for the fishery except as
27 transferees under AS 16.43.180.

28 (i) The commission shall adopt regulations establishing qualifica-
29 tions for ranking applicants under this section. The regulations shall

1 define priority classifications of similarly situated applicants based
2 on a reasonable balance of the following standards:

3 (1) degree of economic dependence upon the fishery, including
4 but not limited to percentage of income derived from the fishery,
5 reliance on alternative occupations, availability of alternative
6 occupations, and investment in gear; and

7 (2) extent of past participation in the fishery, including
8 but not limited to the number of years of participation in the fishery
9 and the consistency of participation during each year.

10 (j) The commission shall assign an applicant to a priority
11 classification based solely upon the applicant's qualifications on
12 January 1 of the year in which the commission declares the recovery
13 entry permits to be available for issuance.

14 (k) The commission shall issue recovery entry permits to qualified
15 applicants in the order of their descending priority classifications.
16 If, in the lowest priority classification of qualified applicants to
17 which some recovery entry permits may be issued, there are more appli-
18 cants than there are recovery entry permits to be issued, the allocation
19 of recovery entry permits in that priority classification shall be by
20 lottery.

21 (l) The commission shall deny the application of an applicant who
22 is not issued a recovery entry permit under (k) of this section.

23 (m) The commission may not issue a recovery entry permit to an
24 applicant under (k) of this section unless, at the time of the issuance,
25 the applicant demonstrates to the satisfaction of the commission his
26 present ability to actively participate in the fishery.

27 (n) The commission may not issue an interim-use permit for the
28 fishery to an applicant for a recovery entry permit until the commission
29 has made a final determination on the applicant's application.

1 Sec. 16.43.345. TRANSFER OF RECOVERY ENTRY PERMITS. (a) A re-
2 recovery entry permit may not be transferred under AS 16.43.170(b) or
3 16.43.180(b).

4 (b) The commission shall adopt regulations providing for the
5 temporary transfer of a recovery entry permit if illness, disability,
6 required military or government service, or other unavoidable hardship
7 prevents the holder of the recovery entry permit from participating in
8 the fishery.

9 Sec. 16.43.346. MODIFICATION, REVOCATION AND REVERSION OF RECOVERY
10 ENTRY PERMITS. (a) A recovery entry permit is a use privilege which
11 may be modified or revoked without compensation.

12 (b) A recovery entry permit reverts to the commission upon the
13 death of the holder of the recovery entry permit.

14 (c) A recovery entry permit reverts to the commission upon the
15 failure of the holder of the recovery entry permit or his transferee
16 under AS 16.43.345(b) to actively participate in the fishery for two
17 consecutive calendar years.

18 Sec. 16.43.347. USE OF RECOVERY ENTRY PERMITS. (a) A holder of a
19 recovery entry permit may operate gear in the fishery for which the
20 recovery entry permit is issued if the commission authorizes the opera-
21 tion of the gear. The commission shall annually determine whether and
22 to what extent holders of recovery entry permits will be authorized
23 under this section to operate gear in each fishery for the following
24 12-month period.

25 (b) The commission shall authorize the operation of gear by
26 holders of recovery entry permits in a fishery only if, in the commis-
27 sion's opinion, the considerations described in AS 16.43.344(c) justify
28 the authorization.

29 (c) If the commission determines that the considerations described

1 in AS 16.43.344(c) justify authorizing the operation of gear by some but
2 not all of the holders of recovery entry permits in a fishery, the
3 commission shall select by lottery the holders of recovery entry permits
4 who will be authorized to operate gear in the fishery.

5 (d) A holder of a recovery entry permit is exempt from AS 16.43.-
6 160 and 16.43.346(c) for the 12-month period in which the commission
7 denies him authorization to operate gear under this section.
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