

Introduced: 2/8/84  
Referred: Resources and  
Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 422

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Limited Entry Act."

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

8 \* Section 1. AS 16.43.150(g) is amended to read:

9 (g) Except as provided in AS 16.10.333 -- 16.10.337 and in  
10 AS 44.81.230 -- 44.81.250, an entry permit may not be[:]

11 (1) pledged, mortgaged, leased, or encumbered in any way;

12 (2) transferred with any retained right of repossession or  
13 foreclosure, or on any condition requiring a subsequent transfer; or

14 (3) attached, distrained, or sold on execution of judgment  
15 or under any other process or order of any court.

16 \* Sec. 2. AS 16.43.160(c) is amended to read:

17 (c) The resident holder of an entry permit or interim-use permit  
18 who has a net family income falling within the federal [FEDERAL COM-  
19 MUNITY SERVICES ADMINISTRATION] poverty guidelines, adjusted by the  
20 commission to reflect appropriate cost-of-living differentials, is  
21 subject to a maximum annual fee of \$15.

22 \* Sec. 3. AS 16.43.160 is amended by adding a new subsection to read:

23 (d) The commission may charge interest at a rate not to exceed  
24 the legal rate of interest established in AS 45.45.010 on fees more  
25 than 60 days overdue.

26 \* Sec. 4. AS 16.43.250(a) is amended to read:

27 (a) Following the establishment of the maximum number of units  
28 of gear for a particular fishery under AS 16.43.240, the commission  
29 shall adopt regulations establishing qualifications for ranking

1 applicants for entry permits according to the degree of hardship which  
2 they would suffer by exclusion from the fishery. The regulations  
3 shall define priority classifications of similarly situated applicants  
4 based upon a reasonable balance of the following hardship standards:

5 (1) degree of economic dependence upon the fishery, which  
6 may include [INCLUDING] but is not limited to percentage of income  
7 derived from the fishery, reliance on alternative occupations, avail-  
8 ability of alternative occupations, investment in vessels and gear;

9 (2) extent of past participation in the fishery, which may  
10 include [INCLUDING] but is not limited to the number of years of  
11 participation in the fishery, and the consistency of participation  
12 during each year.

13 \* Sec. 5. AS 16.43.351(b) is amended to read:

14 (b) A recipient may be issued an educational entry permit valid  
15 for designated fisheries [EACH FISHERY] in the administrative area the  
16 commission determines to be appropriate, considering the nature of the  
17 educational program and the location of the educational or vocational  
18 institution. The recipient of an educational entry permit may not be  
19 issued an educational entry permit [PERMITS] in more than one adminis-  
20 trative area except as issued by the commission in its discretion upon  
21 good cause shown.

22 \* Sec. 6. AS 16.43.960 is amended to read:

23 Sec. 16.43.960. COMMISSION REVOCATION OR SUSPENSION OF [ENTRY]  
24 PERMITS. (a) The commission may revoke, suspend, or transfer all  
25 [AN] entry [PERMIT] or interim-use permits held by [PERMIT IF] a  
26 person who knowingly provides or [SUPPLIES,] assists in providing  
27 false information [SUPPLYING], or fails to correct false information  
28 provided, to the commission for the purpose of obtaining a benefit for  
29 himself or another, including the issuance, renewal, duplication, or

1 transfer of an entry or interim-use permit or vessel license. The  
2 commission may suspend that person's eligibility to hold an entry or  
3 interim-use permit for a period not to exceed three years, and may  
4 impose an administrative fine of not more than \$5,000 on the person.  
5 The commission may also impose an administrative fine of not more than  
6 \$5,000 on an entity whose officers, employees, representatives, or  
7 agents knowingly provide or assist in providing false information, or  
8 fail to correct false information provided, to the commission for the  
9 purpose of obtaining a benefit

10 [(1) PERMIT APPLICATION;

11 (2) PERMIT TRANSFER; OR

12 (3) PERMIT RENEWAL].

13 (b) The [BEFORE REVOCATION, THE] commission shall serve the  
14 respondent [PERMIT HOLDER] personally or by certified or registered  
15 mail with a notice to show cause why the proposed action should not  
16 take place. The notice to show cause must

17 (1) be supported by an affidavit which may be made on  
18 information or belief setting out the facts which are the basis of the  
19 proposed action;

20 (2) provide for at least 30 days' notice of the place,  
21 date, and time of the hearing where the respondent [PERMIT HOLDER] may  
22 present evidence in opposition to the proposed action; unless waived  
23 in writing by the respondent [PERMIT HOLDER], the hearing [PLACE]  
24 shall be held within the judicial district in which the respondent  
25 [PERMIT HOLDER] resides if the respondent [PERMIT HOLDER] resides in  
26 the state; the hearing place shall be at the discretion of the commis-  
27 sion for those respondents [PERMIT HOLDERS] residing outside the  
28 state;

29 (3) specify the statutes or regulations violated;

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

3           (5) indicate to [THAT] the respondent [PERMIT HOLDER'S]  
4 that the respondent's ability to permanently transfer the permits  
5 [PERMIT] which are [IS] the subject of the show cause [REVOCA-  
6 TION] proceedings has been suspended as of the date of the notice and will  
7 continue to be suspended until the exhaustion of all administrative  
8 and judicial remedies; and

9           (6) provide other information the commission considers  
10 proper.

11           (c) A permit subject to show cause [REVOCA-  
12 TION] proceedings under this section may not be transferred after the date of the notice  
13 in (b) of this section pending exhaustion of all administrative and  
14 judicial remedies arising from action taken under this section.

15           (d) The show cause [REVOCA-  
16 TION] hearing shall be conducted before a quorum of commissioners and shall be presided over by a  
17 hearing officer appointed by the commission who shall rule on the  
18 presentation of evidence and other procedural matters. Hearings shall  
19 be conducted in accordance with regulations adopted under AS 16.43.-  
20 110(b). [WITHIN A REASONABLE TIME AFTER THE CONCLUSION OF THE HEAR-  
21 ING, THE HEARING OFFICER SHALL SUBMIT TO THE ATTENDING COMMISSIONERS A  
22 PROPOSED DECISION BASED ON THE RECORD OF THE HEARING AND CONTAINING  
23 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ACTION. THE  
24 ATTENDING COMMISSIONERS SHALL THEN REVIEW THE HEARING OFFICER'S PRO-  
25 POSED DECISION AND ADOPT OR AMEND OR REJECT THE CONTENTS OF THE PRO-  
26 POSED DECISION IN THE WRITTEN DECISION OF THE COMMISSION. A COPY OF  
27 THE COMMISSION DECISION SHALL BE MAILED TO EACH PARTY OR THE PARTY'S  
28 ATTORNEY BY CERTIFIED OR REGISTERED MAIL.]

29           (e) The failure of a respondent [PERMIT HOLDER] properly served

1 under (b) of this section to appear at the hearing is not grounds for  
2 setting aside any commission action taken. However, the commission  
3 may in its discretion order a continuance or second hearing.

4 (f) [THE EFFECTIVE DATE OF THE COMMISSION DECISION UNDER THIS  
5 SECTION IS THE DATE OF THE NOTICE TO SHOW CAUSE FIRST SERVED UPON THE  
6 PERMIT HOLDER UNDER (b) OF THIS SECTION.]

7 (g) The provisions of this section [DO NOT] apply to conduct  
8 occurring after January 1, 1973, but do not affect a [THE] permit held  
9 by [OF] a person who is a bona fide purchaser. Failure to correct  
10 false information is a continuing offense.

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

17 (i) An entry permit revoked by the commission under this section  
18 that is pledged [TAKEN] as security for a loan under AS 16.10.333 or  
19 AS 44.81.230 shall be reassigned as provided in AS 16.10.337 or  
20 AS 44.81.250.

21 \* Sec. 7. AS 16.43.970(b) is amended to read:

22 (b) A person who knowingly makes a false statement to the com-  
23 mission for the purpose of obtaining a benefit, including the issu-  
24 ance, renewal, duplication, or transfer of an entry or interim-use  
25 permit or vessel license [OF FACT IN THE APPLICATION FOR OR RENEWAL OF  
26 AN INTERIM-USE PERMIT OR AN ENTRY PERMIT OR VESSEL LICENSE APPLICATION  
27 OR RENEWAL OR IN THE APPLICATION FOR A TRANSFER UNDER AS 16.43.170 OR  
28 16.43.180], or a person who assists another by knowingly making a  
29 false statement to the commission for the purpose of obtaining a bene-

1        fit for another, [OF FACT IN SUPPORT OF THE OTHER PERSON'S APPLICATION  
2        FOR ISSUANCE OR RENEWAL OF AN INTERIM-USE PERMIT OR AN ENTRY PERMIT OR  
3        VESSEL LICENSE] is guilty of the crime of unsworn falsification as set  
4        out in AS 11.56.210. Upon conviction, the person [A MISDEMEANOR AND]  
5        (1) shall forfeit to the commission all interim-use permits and entry  
6        permits [HELD BY THE PERSON MAKING THE FALSE STATEMENT] and (2) loses  
7        [SHALL LOSE] eligibility for interim-use permits and for entry permits  
8        for a period of three years [AND IS PUNISHABLE BY A FINE OF NOT MORE  
9        THAN \$5,000].

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

11                Sec. 16.43.975. PUBLIC DISCLOSURE. The commission may provide  
12        by regulation that documents submitted to the commission containing  
13        information that, if disclosed, could cause appreciable economic or  
14        competitive harm to the person supplying the information are not  
15        subject to public disclosure.