

Introduced: 1/22/85
Referred: Resources, Judiciary
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 83

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST 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, AS 44.81.-
10 210, and in 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 16.43.150(h) is amended to read:

17 (h) Upon the death of an entry permit holder, the permanent
18 permit shall be transferred by the commission directly to the surviv-
19 ing spouse by right of survivorship unless the deceased holder has
20 expressed a contrary intent in a will that is probated. When no
21 spouse survives, the rights of the decedent pass as part of the dece-
22 dent's estate. Except as provided in AS 16.10.333 -- 16.10.337,
23 AS 44.81.210, and AS 44.81.230 -- 44.81.250, the permit is exempt from
24 the claims of creditors of the estate.

25 * Sec. 3. AS 16.43.160(c) is amended to read:

26 (c) The resident holder of an entry permit or interim-use permit
27 who has a [NET] family income falling within the federal [FEDERAL COM-
28 MUNITY SERVICES ADMINISTRATION] poverty guidelines, adjusted by the
29 commission to reflect appropriate cost-of-living differentials, is

1 subject to a maximum annual fee of \$15.

2 * Sec. 4. AS 16.43.160 is amended by adding a new subsection to read:

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

6 * Sec. 5. AS 16.43.220(a) is amended to read:

7 (a) The commission shall adopt regulations specifying the dates
8 and places of application, the procedures to be followed in renewal of
9 the interim-use permit including the time, place of its renewal, and
10 for any other purpose incident to the administration of interim-use
11 permits for that fishery. An interim-use permit shall expire upon the
12 commission's final determination of the holder's eligibility for an
13 entry permit.

14 * Sec. 6. AS 16.43.250(a) is amended to read:

15 (a) Following the establishment of the maximum number of units
16 of gear for a particular fishery under AS 16.43.240, the commission
17 shall adopt regulations establishing qualifications for ranking ap-
18 plicants for entry permits according to the degree of hardship which
19 they would suffer by exclusion from the fishery. The regulations
20 shall define priority classifications of similarly situated applicants
21 based upon a reasonable balance of the following hardship standards:

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

26 (2) extent of past participation in the fishery, which may
27 include [INCLUDING] but is not limited to the number of years of
28 participation in the fishery, and the consistency of participation
29 during each year.

1 * Sec. 7. AS 16.43.351(b) is amended to read:

2 (b) A recipient may be issued an educational entry permit valid
3 for designated fisheries [EACH FISHERY] in the administrative area the
4 commission determines to be appropriate, considering the nature of the
5 educational program and the location of the educational or vocational
6 institution. The recipient of an educational entry permit may not be
7 issued an educational entry permit [PERMITS] in more than one adminis-
8 trative area except as issued by the commission in its discretion upon
9 good cause shown.

10 * Sec. 8. AS 16.43.960 is amended to read:

11 Sec. 16.43.960. COMMISSION REVOCATION OR SUSPENSION OF [ENTRY]
12 PERMITS. (a) The commission may revoke, suspend, or transfer all
13 [AN] entry [PERMIT] or interim-use permits held by [PERMIT IF] a
14 person who knowingly provides or [SUPPLIES,] assists in providing
15 false information [SUPPLYING], or fails to correct false information
16 provided, to the commission for the purpose of obtaining a benefit for
17 himself or another, including the issuance, renewal, duplication, or
18 transfer of an entry or interim-use permit or vessel license. The
19 commission may suspend that person's eligibility to hold an entry or
20 interim-use permit for a period not to exceed three years, and may
21 impose an administrative fine of not more than \$5,000 on the person.
22 The commission may also impose an administrative fine of not more than
23 \$5,000 on an entity whose officers, employees, representatives, or
24 agents knowingly provide or assist in providing false information, or
25 fail to correct false information provided, to the commission for the
26 purpose of obtaining a benefit

- 27 [(1) PERMIT APPLICATION;
28 (2) PERMIT TRANSFER; OR
29 (3) PERMIT RENEWAL].

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

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

8 (2) provide for at least 30 days' notice of the place,
9 date, and time of the hearing where the respondent [PERMIT HOLDER] may
10 present evidence in opposition to the proposed action; unless waived
11 in writing by the respondent [PERMIT HOLDER], the hearing [PLACE]
12 shall be held within the judicial district in which the respondent
13 [PERMIT HOLDER] resides if the respondent [PERMIT HOLDER] resides in
14 the state; the hearing place shall be at the discretion of the commis-
15 sion for those respondents [PERMIT HOLDERS] residing outside the
16 state;

17 (3) specify the statutes or regulations violated;

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

20 (5) indicate to [THAT] the respondent [PERMIT HOLDER'S]
21 that the respondent's ability to permanently transfer the permits
22 [PERMIT] which are [IS] the subject of the show cause [REVOCATION]
23 proceedings has been suspended as of the date of the notice and will
24 continue to be suspended until the exhaustion of all administrative
25 and judicial remedies; and

26 (6) provide other information the commission considers
27 proper.

28 (c) A permit subject to show cause [REVOCATION] proceedings
29 under this section may not be transferred after the date of the notice

1 in (b) of this section pending exhaustion of all administrative and
2 judicial remedies arising from action taken under this section.

3 (d) The show cause [REVOCATION] hearing shall be conducted
4 before a quorum of commissioners and shall be presided over by a
5 hearing officer appointed by the commission who shall rule on the
6 presentation of evidence and other procedural matters. Hearings shall
7 be conducted in accordance with regulations adopted under AS 16.43.-
8 110(b). [WITHIN A REASONABLE TIME AFTER THE CONCLUSION OF THE HEAR-
9 ING, THE HEARING OFFICER SHALL SUBMIT TO THE ATTENDING COMMISSIONERS A
10 PROPOSED DECISION BASED ON THE RECORD OF THE HEARING AND CONTAINING
11 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ACTION. THE
12 ATTENDING COMMISSIONERS SHALL THEN REVIEW THE HEARING OFFICER'S PRO-
13 POSED DECISION AND ADOPT OR AMEND OR REJECT THE CONTENTS OF THE PRO-
14 POSED DECISION IN THE WRITTEN DECISION OF THE COMMISSION. A COPY OF
15 THE COMMISSION DECISION SHALL BE MAILED TO EACH PARTY OR THE PARTY'S
16 ATTORNEY BY CERTIFIED OR REGISTERED MAIL.]

17 (e) The failure of a respondent [PERMIT HOLDER] properly served
18 under (b) of this section to appear at the hearing is not grounds for
19 setting aside any commission action taken. However, the commission
20 may in its discretion order a continuance or second hearing.

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

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

28 (h) Judicial review of commission determinations under this
29 section is in accordance with AS 44.62.560 -- 44.62.570; however, if a

1 hearing de novo is granted under AS 44.62.570(d), the hearing may, in
2 the discretion of the court, be had with a jury sitting if application
3 for the jury hearing is filed with the court no later than 10 days
4 after service of the notice of appeal.

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

9 * Sec. 9. AS 16.43.970(b) is amended to read:

10 (b) A person who knowingly makes a false statement to the com-
11 mission for the purpose of obtaining a benefit, including the issu-
12 ance, renewal, duplication, or transfer of an entry or interim-use
13 permit or vessel license [OF FACT IN THE APPLICATION FOR OR RENEWAL OF
14 AN INTERIM-USE PERMIT OR AN ENTRY PERMIT OR VESSEL LICENSE APPLICATION
15 OR RENEWAL OR IN THE APPLICATION FOR A TRANSFER UNDER AS 16.43.170 OR
16 16.43.180], or a person who assists another by knowingly making a
17 false statement to the commission for the purpose of obtaining a bene-
18 fit for another, [OF FACT IN SUPPORT OF THE OTHER PERSON'S APPLICATION
19 FOR ISSUANCE OR RENEWAL OF AN INTERIM-USE PERMIT OR AN ENTRY PERMIT OR
20 VESSEL LICENSE] is guilty of the crime of unsworn falsification as set
21 out in AS 11.56.210. Upon conviction, the person [A MISDEMEANOR AND]
22 (1) shall forfeit to the commission all interim-use permits and entry
23 permits [HELD BY THE PERSON MAKING THE FALSE STATEMENT] and (2) loses
24 [SHALL LOSE] eligibility for interim-use permits and for entry permits
25 for a period of three years [AND IS PUNISHABLE BY A FINE OF NOT MORE
26 THAN \$5,000].

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

28 Sec. 16.43.975. PUBLIC DISCLOSURE. The commission may provide
29 by regulation that documents submitted to the commission containing

1 information relating to an individual's personal finances and informa-
2 tion supplied by individuals for research purposes, produced in re-
3 sponse to requests by the commission, are not subject to public dis-
4 closure.