

Offered: 3/7/85  
Referred: Judiciary

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE BILL NO. 83 (Resources)  
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; and providing  
7 for an effective date."

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

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

10 (g) Except as provided in AS 16.10.333 - 16.10.337, AS 44.81.-  
11 210, and in AS 44.81.230 - 44.81.250, an entry permit may not be[:]

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

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

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

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

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

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

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

1 commission to reflect appropriate cost-of-living differentials, is  
2 subject to a maximum annual fee of \$15.

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

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

7 \* Sec. 5. AS 16.43.250(a) is amended to read:

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

15 (1) degree of economic dependence upon the fishery, includ-  
16 ing, when reasonable for the fishery, the [BUT NOT LIMITED TO] per-  
17 centage of income derived from the fishery, reliance on alternative  
18 occupations, availability of alternative occupations, investment in  
19 vessels and gear;

20 (2) extent of past participation in the fishery, including,  
21 when reasonable for the fishery, [BUT NOT LIMITED TO] the number of  
22 years of participation in the fishery [,] and the consistency of  
23 participation during each year.

24 \* Sec. 6. AS 16.43.351(b) is amended to read:

25 (b) A recipient may be issued an educational entry permit valid  
26 for designated fisheries [EACH FISHERY] in the administrative area the  
27 commission determines to be appropriate, considering the nature of the  
28 educational program and the location of the educational or vocational  
29 institution. The recipient of an educational entry permit may not be

1 issued an educational entry permit [PERMITS] in more than one adminis-  
2 trative area except as issued by the commission in its discretion upon  
3 good cause shown.

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

5 Sec. 16.43.955. HEARINGS IN PROXIMITY TO BOARD OF FISHERIES  
6 MEETINGS. When practicable, a commission hearing that deals with the  
7 subject of limiting entry to a fishery shall be held on the same dates  
8 on which, and in the same building or in a building adjacent to the  
9 building in which, a Board of Fisheries meeting is being held.

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 self 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 HEARING,  
9 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 (g) [(h)] Judicial review of commission determinations under  
29 this section is in accordance with AS 44.62.560 - 44.62.570; however,

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

5 (h) [(i)] An entry permit revoked by the commission under this  
6 section that is pledged [TAKEN] as security for a loan under AS 16.-  
7 10.333 or AS 44.81.230 shall be reassigned or sold as provided in  
8 AS 16.10.337 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. Documents submitted to the  
29 commission containing information relating to an individual's personal

1        finances and information supplied by individuals for research pur-  
2        poses, produced in response to requests by the commission, are not  
3        subject to public disclosure.

4        \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
5        10.070(c).