

**SENATE CS FOR CS FOR HOUSE BILL NO. 137 (RESOURCES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered: 5/17/91**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES GRUSSENDORF, Hudson, Koponen, Ulmer, Gruenberg, B.Davis, Mackie, C.Davis, Kubina, Taylor**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act authorizing the Alaska Commercial Fisheries Entry Commission to establish a  
2 moratorium on new entrants into the Southeast Alaska dungeness crab fishery and certain  
3 other commercial fisheries, relating to petitions by the commissioner of fish and game for  
4 the establishment of a moratorium, and relating to qualifications for entry permits; and  
5 providing for an effective date."

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

7 \* **Section 1. FINDINGS.** The legislature finds that

8 (1) the continuation of a new and emerging commercial fishery may be threatened by the  
9 lack of adequate biological and resource management information necessary to determine the amount  
10 of fishing effort that a fishery resource can sustain;

11 (2) the continuation of a new and emerging commercial fishery may be threatened by an  
12 increase in fishing effort that is coupled with a lack of sufficient biological and resource management  
13 information necessary to ascertain, consistent with the principles of sustained yield, whether the fishery

1 can support additional fishing effort;

2 (3) the provisions of the current commercial fisheries limited entry statutes, developed  
3 for commercial salmon fisheries, may not be appropriate for certain new and emerging commercial  
4 fisheries in the state;

5 (4) the time consuming process required to consider, adopt, and implement a limited entry  
6 program for a fishery, coupled with public discussion of a proposal for limiting entry into the fishery,  
7 can stimulate a rush of new entrants into the fishery before the limited entry program can be  
8 implemented.

9 \* Sec. 2. AS 16.05.050 is amended by adding a new paragraph to read:

10 (20) to petition the Alaska Commercial Fisheries Entry Commission, unless the  
11 Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on  
12 new entrants into commercial fisheries

13 (A) that have experienced recent increases in fishing effort that are beyond  
14 a low, sporadic level of effort;

15 (B) that have achieved a level of harvest that may be approaching or  
16 exceeding the maximum sustainable level for the fishery; and

17 (C) for which there is insufficient biological and resource management  
18 information necessary to promote the conservation and sustained yield management of the  
19 fishery.

20 \* Sec. 3. AS 16.05.251 is amended by adding a new subsection to read:

21 (g) The Board of Fisheries shall consider a request of the commissioner for approval of  
22 a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on  
23 new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special  
24 meeting that follows the receipt by the board of the request for approval of the petition and that  
25 allows time for the notice required under this subsection. The board may consider the request  
26 of the commissioner for approval of the petition only after 15 days' public notice of the board's  
27 intention to consider approval of the petition. The board shall consider whether the  
28 commissioner, in support of the request for approval of the petition, has adequately shown that  
29 the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board  
30 by a majority vote of its members at the meeting when the petition must be considered shall  
31 approve or disapprove the petition.

1 \* Sec. 4. AS 16.43.100(a) is amended to read:

2 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall [:]

3 (1) regulate entry into the commercial fisheries for all fishery resources in the  
4 state;

5 (2) establish priorities for the application of the provisions of this chapter to the  
6 various commercial fisheries of the state;

7 (3) establish administrative areas suitable for regulating and controlling entry into  
8 the commercial fisheries;

9 (4) establish, for all types of gear, the maximum number of entry permits for each  
10 administrative area;

11 (5) designate, when necessary to accomplish the purposes of this chapter,  
12 particular species for which separate interim-use permits or entry permits will be issued;

13 (6) establish qualifications for the issuance of entry permits;

14 (7) issue entry permits to qualified applicants;

15 (8) issue interim-use permits as provided in AS 16.43.210, [AND] 16.43.220, and  
16 16.43.225:

17 (9) establish, for all types of gear, the optimum number of entry permits for each  
18 administrative area;

19 (10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320  
20 to reduce the number of outstanding entry permits to the optimum number of entry permits;

21 (11) provide for the transfer and reissuance of entry permits to qualified  
22 transferees;

23 (12) provide for the transfer and reissuance of entry permits for alternative types  
24 of legal gear, in a manner consistent with the purposes of this chapter;

25 (13) administer the collection of the annual fees provided for in AS 16.43.160;

26 (14) administer the issuance of commercial fishing vessel licenses under  
27 AS 16.05.490;

28 (15) issue educational entry permits to applicants who qualify under the provisions  
29 of AS 16.43.340 - 16.43.390;

30 (16) establish reasonable user fees for services;

31 (17) issue landing permits under [IN ACCORDANCE WITH] AS 16.05.675 and

1 regulations adopted under that section; [AND]

2 (18) establish and collect annual fees for the issuance of landing permits that  
3 reasonably reflect the costs incurred in the administration and enforcement of provisions of law  
4 related to landing permits; and

5 (19) establish a moratorium on entry into commercial fisheries as provided  
6 in AS 16.43.225.

7 \* Sec. 5. AS 16.43.180(a) is amended to read:

8 (a) The commission shall adopt regulations providing for the temporary emergency  
9 transfer of entry permits and interim-use permits when illness, disability, death, required military  
10 or government service, or other unavoidable hardship prevents the permit holder from  
11 participating in the fishery. To alleviate hardship pending a final determination of the permit  
12 holder's eligibility for an entry permit, the commission shall adopt regulations providing for the  
13 temporary emergency transfer of an interim-use permit issued under AS 16.43.210(b) or  
14 16.43.225.

15 \* Sec. 6. AS 16.43.210(a) is amended to read:

16 (a) Pending the establishment of the maximum number of entry permits under  
17 AS 16.43.240 and the issuance of entry permits under AS 16.43.270, the commission shall issue  
18 interim-use permits under regulations adopted by the commission for each fishery, not subject  
19 to a moratorium under AS 16.43.225, to all applicants who can establish their present ability  
20 to participate actively in the fishery for which they are making application.

21 \* Sec. 7. AS 16.43 is amended by adding new sections to read:

22 Sec. 16.43.225. MORATORIUM ON NEW ENTRANTS INTO CERTAIN FISHERIES.

23 (a) Subject to (b) of this section, the commission may establish a moratorium on new entrants  
24 into a fishery

25 (1) that has experienced recent increases in fishing effort that are beyond a low,  
26 sporadic level of effort;

27 (2) that has achieved a level of harvest that may be approaching or exceeding the  
28 maximum sustainable level for the fishery; and

29 (3) for which there is insufficient biological and resource management information  
30 necessary to promote the conservation and sustained yield management of the fishery.

31 (b) The commission may establish a moratorium on new entrants into a fishery described

1 in (a) of this section if

2 (1) the commissioner of fish and game, subject to AS 16.05.251(g), petitions the  
3 commission under AS 44.62.220 to establish a moratorium on new entrants into the fishery; and

4 (2) the commission finds that

5 (A) the fishery has reached a level of participation that may threaten the  
6 conservation and the sustained yield management of the fishery resource and the  
7 economic health and stability of commercial fishing; and

8 (B) the commission has insufficient information to conclude that the  
9 establishment of a maximum number of entry permits under AS 16.43.240 would further  
10 the purposes of this chapter.

11 (c) The commission may establish a moratorium under this section for a continuous  
12 period of up to four years. A fishery that has been subject to a moratorium under this section  
13 may not be subjected to a subsequent moratorium under this section unless five years have  
14 elapsed since the previous moratorium expired.

15 (d) While a moratorium is in effect, the commission shall conduct investigations to  
16 determine whether a maximum number of entry permits should be established under  
17 AS 16.43.240 by

18 (1) conducting research into conditions in the fishery;

19 (2) consulting with the Department of Fish and Game and the Board of Fisheries;

20 and

21 (3) consulting with participants in the fishery.

22 (e) The commission shall establish by regulation the qualifications for applicants for an  
23 interim-use permit for a fishery subject to a moratorium under this section. The qualifications  
24 must include the minimum requirements for past or present participation and harvest in the  
25 fishery. The commission may not issue an interim-use permit for a fishery subject to a  
26 moratorium under this section unless the applicant can satisfy the qualifications established under  
27 this subsection and establish the present ability and intent to participate actively in the fishery.

28 **Sec. 16.43.227. SOUTHEAST ALASKA DUNGENESS CRAB FISHERY.** (a) The  
29 commission may establish a moratorium on new entrants into the southeast Alaska dungeness  
30 crab fishery for a continuous period of up to four years without complying with  
31 AS 16.43.225(a) - (c). While the moratorium is in effect, the commission shall

- 1 (1) conduct the investigation required under AS 16.43.225(d);  
2 (2) establish by regulation the qualifications for an interim-use permit for the  
3 fishery, including minimum requirements for past or present participation and harvest in the  
4 fishery; and  
5 (3) issue interim-use permits for the fishery to applicants who satisfy the  
6 qualifications established under (2) of this subsection and who establish the present ability and  
7 intent to participate actively in the fishery.

8 (b) Notwithstanding AS 16.43.225, for the purposes of this chapter

- 9 (1) an interim-use permit issued under this section shall be treated as an interim-  
10 use permit issued under AS 16.43.225;  
11 (2) a moratorium established under this section shall be treated as a moratorium  
12 established under AS 16.43.225.

13 \* Sec. 8. AS 16.43.240(b) is amended to read:

14 (b) When the commission finds that a fishery, not designated as a distressed fishery under  
15 AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has reached levels of  
16 participation that [WHICH] require the limitation of entry in order to achieve the purposes of  
17 this chapter, the commission shall establish the maximum number of entry permits for that  
18 fishery.

19 \* Sec. 9. AS 16.43.240 is amended by adding a new subsection to read:

20 (c) When the commission finds that a fishery subject to a moratorium under  
21 AS 16.43.225 has reached levels of participation that require the limitation of entry in order to  
22 achieve the purposes of this chapter, the commission shall establish the maximum number of  
23 entry permits for that fishery.

24 \* Sec. 10. AS 16.43.260(a) is amended to read:

25 (a) The commission shall accept applications for entry permits only from applicants who  
26 have harvested fishery resources commercially while participating in the fishery as holders of  
27 gear licenses issued under AS 16.05.536 - 16.05.670 or [AND] interim-use permits under  
28 AS 16.43.210(a) or 16.43.225 before the qualification date established in (d), [OR] (e), or (f) of  
29 this section. The commission may specify by regulation the calendar years of participation that  
30 will be considered for eligibility purposes.

31 \* Sec. 11. AS 16.43.260(d) is amended to read:

1 (d) Except as provided in (e) or (f) of this section, an applicant shall be assigned to a  
2 priority classification based solely upon the applicant's qualifications as of January 1, 1973.

3 \* Sec. 12. AS 16.43.260(e) is amended to read:

4 (e) Except as provided in (f) of this section, when [WHEN] the commission establishes  
5 the maximum number of entry permits for a particular fishery under AS 16.43.240 after  
6 January 1, 1975, an applicant shall be assigned to a priority classification based solely upon the  
7 applicant's qualifications as of January 1 of the year during which the commission establishes  
8 the maximum number of entry permits for the fishery for which application is made.

9 \* Sec. 13. AS 16.43.260 is amended by adding a new subsection to read:

10 (f) When the commission establishes the maximum number of entry permits under  
11 AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225, an applicant for  
12 an entry permit for the fishery shall be assigned to a priority classification based solely upon the  
13 applicant's qualifications as of the effective date of the regulation establishing the moratorium.

14 \* Sec. 14. This Act takes effect immediately under AS 01.10.07(c).