

SENATE BILL NO. 241

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS JONES, Eliason

Introduced: 4/5/91
Referred: Resources

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 certain commercial fisheries and relating to qualifications
3 for entry permits."

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

5 * **Section 1. FINDINGS AND PURPOSE.** (a) The legislature finds that

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

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

13 (3) the provisions of the current commercial fisheries limited entry statutes, developed
14 for commercial salmon fisheries, may not be appropriate for certain other commercial fisheries in the

1 state;

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

6 (b) It is the purpose of this Act to

7 (1) authorize the Alaska Commercial Fisheries Entry Commission to temporarily prevent
8 additional participants from entering a threatened commercial fishery in order to

9 (A) allow the fishery to continue in an orderly and controlled manner until
10 additional data can be gathered from the commercial harvest and from biological research;

11 (B) protect the fishery and participating fishermen dependent upon the fishery by
12 lessening the risk of closure of the fishery for lack of an effective management plan; and

13 (C) allow control of the development of the fishery; and

14 (2) avoid a potential risk to a threatened commercial fishery, as well as a rush to limit
15 entry into the fishery, while allowing sufficient time for research and careful consideration and discussion
16 of all management alternatives for regulating the fishery and entry into the fishery among interested
17 parties, including the public, fishery managers, the Board of Fisheries, the Alaska Commercial Fisheries
18 Entry Commission, and the legislature.

19 * Sec. 2. AS 16.43.100(a) is amended to read:

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

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

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

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

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

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

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

- 1 (7) issue entry permits to qualified applicants;
2 (8) issue interim-use permits as provided in AS 16.43.210 and 16.43.220;
3 (9) establish, for all types of gear, the optimum number of entry permits for each
4 administrative area;
5 (10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320
6 to reduce the number of outstanding entry permits to the optimum number of entry permits;
7 (11) provide for the transfer and reissuance of entry permits to qualified
8 transferees;
9 (12) provide for the transfer and reissuance of entry permits for alternative types
10 of legal gear, in a manner consistent with the purposes of this chapter;
11 (13) administer the collection of the annual fees provided for in AS 16.43.160;
12 (14) administer the issuance of commercial fishing vessel licenses under
13 AS 16.05.490;
14 (15) issue educational entry permits to applicants who qualify under the provisions
15 of AS 16.43.340 - 16.43.390;
16 (16) establish reasonable user fees for services;
17 (17) issue landing permits under [IN ACCORDANCE WITH] AS 16.05.675 and
18 regulations adopted under that section; [AND]
19 (18) establish and collect annual fees for the issuance of landing permits that
20 reasonably reflect the costs incurred in the administration and enforcement of provisions of law
21 related to landing permits; and
22 (19) establish a moratorium on entry into commercial fisheries as provided
23 in AS 16.43.225.

24 * Sec. 3. AS 16.43.180(a) is amended to read:

25 (a) The commission shall adopt regulations providing for the temporary emergency
26 transfer of entry permits and interim-use permits when illness, disability, death, required military
27 or government service, or other unavoidable hardship prevents the permit holder from
28 participating in the fishery. To alleviate hardship pending a final determination of the permit
29 holder's eligibility for an entry permit, the commission shall adopt regulations providing for the
30 temporary emergency transfer of an interim-use permit issued under AS 16.43.210(b) or
31 16.43.225.

1 * Sec. 4. AS 16.43.210(a) is amended to read:

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

7 * Sec. 5. AS 16.43 is amended by adding a new section to read:

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

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

11 (1) is experiencing increases in participation and fishing effort that significantly
12 exceed historic levels of participation and fishing effort known for the fishery; or

13 (2) has developed within the four calendar years preceding the calendar year in
14 which the commissioner of fish and game petitions the commission to adopt a regulation
15 establishing a moratorium on new entrants into the fishery.

16 (b) The commission may establish a moratorium on new entrants into a fishery described
17 in (a) of this section if

18 (1) the commissioner of fish and game petitions the commission to establish a
19 moratorium on new entrants into the fishery; and

20 (2) the commission finds that

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

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

27 (c) The commission may establish a moratorium under this section for a continuous
28 period of up to four years. A fishery may not be subject to more than one moratorium under this
29 section.

30 (d) While a moratorium is in effect, the commission shall conduct investigations to
31 determine whether a maximum number of entry permits should be established under

1 AS 16.43.240 by

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

3 (2) consulting with the Department of Fish and Game and the Board of Fisheries
4 as necessary; and

5 (3) consulting with participants in the fishery as necessary.

6 (e) The commission must establish by regulation the qualifications for applicants for an
7 interim use permit for a fishery subject to a moratorium under this section. The qualifications
8 must include the minimum requirements for past or present participation and harvest in the
9 fishery. The commission may not issue an interim use permit for a fishery subject to a
10 moratorium under this section unless the applicant can satisfy the qualifications established under
11 this subsection and establish the present ability and intent to participate actively in the fishery.

12 * Sec. 6. AS 16.43.240(b) is amended to read:

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

18 * Sec. 7. AS 16.43.240 is amended by adding a new subsection to read:

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

23 * Sec. 8. AS 16.43.260(a) is amended to read:

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

30 * Sec. 9. AS 16.43.260(d) is amended to read:

31 (d) Except as provided in (e) or (f) of this section, an applicant shall be assigned to a

1 priority classification based solely upon the applicant's qualifications as of January 1, 1973.

2 * Sec. 10. AS 16.43.260(e) is amended to read:

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

8 * Sec. 11. AS 16.43.260 is amended by adding a new subsection to read:

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