

HB

975

HB 975

Alaskan Youth Village

Lavon Kindell

licensed by H & SS

private, non-profit residential
child care agency.

concerned about accreditation
problems which could result
if had to deal with Dept of Educ.

accreditation would requirement
would probably prohibit

← Dale Sies
will testify

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 18, 1978

SUBJECT: Amendment to HCS SB 428
TO: House Judiciary Committee
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether HCS SB 428 could be amended by adding the material contained in HB 975. In my opinion it could.

Both bills deal with the subject of permits and licenses under limited entry. The material currently in HCS SB 428 deals with transfer and revocation of limited entry permits and the material in HB 975 allows entry permits for educational purposes.

It would appear that combining these acts would not create a violation of the single subject rule contained in Art. II, sec. 13 of the Constitution of Alaska which reads in relevant part:

"Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws."

There is some doubt as to the precise parameters of the single subject rule in Alaska. In a case construing this clause of the constitution in relation to a general obligation bond bill, Gellert v. State, 522 P2d 1120 (Alaska 1974), our court stated

"Ultimately the decision in cases of this kind must be made on a basis of practicality and reasonableness. In determining whether a bill is confined to one subject, we agree with the statement: 'All that is necessary is that act should embrace some one general subject; and

House Judiciary Committee

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by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject'."

The common thread of the matters dealt with in both bills in entitlement to Limited Entry Permits. This would appear to include obtaining, transferring and revoking permits. The subject matter appears to be connected with and related to each other logically so as to be parts of one general subject.

I have, therefore, prepared a committee substitute for SB 428 incorporating the provisions of HB 975.

BGB:jpd

Enclosure



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMO: May 29, 1978
TO: Terry Gardiner, chairman
RE: HB 975, educational ltd. entry permits

Terry --

I talked to Dave George of the Limited Entry Commission the other day about this bill. He has drafted a proposed committee substitute for our consideration and someone from the commission, probably Adasiak, will be here for consideration, to testify and/or answer questions.

They have some good points, I believe. There are five basic points:

1. page 1, line 17: "private agency" should be defined more specifically. Should it be private non-profit, or what? From the language, it could be day-care centers or the Cub Scouts from my reading of the bill. Also, the provision "private agencies involved in the training or rehabilitation of or care for minors" appears to exclude Sheldon Jackson College, since college students are very often not minors.

2. page 2, line 3: ADF&G is normally given authority over limiting the amount of fish caught; D. George says the Limited Entry Commission has no authority, and this provision should be delegated to Fish and Game.

3. page 2, line 5: accounting for profits is also outside the normal authority of the entry commission, and perhaps ADF&G or the Department of Revenue would be more appropriate.

4. There is no provision in the bill for transferability. Normally entry permits are transferable and the entry commission believes these should not be. They should be non-transferable and/or renewable each year by application; and should revert to the state if they are not used.

5. The general concern has been expressed that the way the bill is currently written someone might be able to take advantage of an association with some "private agency" and use a permit for their own benefit. The above changes seem to limit that possibility.

The Judiciary CS for SB 428 does not resolve these issues.

Proposed by Limited Entry Commission

Introduced: 5/17/78
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 975

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to entry into Alaska commercial fisheries
7 for educational purposes; and providing for an effective date."

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

9 * Section 1. As 16.43.100 is amended by adding a new paragraph to read:

10 (14) issue educational entry permits to applicants who qualify under
11 the provisions of secs. 350 - 375 of this chapter.

12 * Section 2. As 16.43 is amended by adding new sections to read:

13 ARTICLE 6. EDUCATIONAL ENTRY PERMITS.

14 Sec. 16.43.350. EDUCATIONAL ENTRY PERMITS. (a) In addition to entry permits
15 and interim-use permits, the commission may issue educational entry permits to
16 public, private or denominational educational institutions accredited by the
17 State of Alaska Department of Education or accredited institutions, career or
18 vocational programs approved by the State of Alaska Post-Secondary Education
19 Commission, which are located within the state, if

20 (1) the program is offered to students at the high school level or above;

21 (2) the issuance of an educational permit is reasonably necessary to the
22 instruction of students under courses offered by the applicant for the educational
23 entry permit;

24 (3) the program is offered by an institution which has been in operation for
25 at least two years; and

26 (4) the institution offering the program is not a correspondence institution.

27 (b) An educational entry permit may only be used in a program conducted by the
28 recipient thereof for the purpose of training students in the methods of commercial
29 fishing.

1 (c) The commission may issue educational entry permits notwithstanding the establishment
2 of maximum or optimum numbers under secs. 240 and 290 of this chapter, respectively.

3 Sec. 16.43.355. TERM AND CONDITIONS OF EDUCATIONAL ENTRY PERMIT.

4 (a) Educational entry permits may be applied for annually and shall be issued for a
5 term of one year and are non-transferrable.

6 (b) A recipient may be issued an educational entry permit for each fishery in the
7 administrative area the commission determines to be appropriate, considering the
8 nature of the educational program and the location of the educational or vocational
9 institution. The recipient of an educational entry permit shall not be issued
10 educational entry permits in more than one administrative area except as issued by the
11 commission in its discretion upon good cause shown.

12 (c) Consistent with the provisions of sec. 350 of this chapter, an educational entry
13 permit may be used by any agent or employee authorized by the recipient of the
14 educational entry permit.

15 (d) Annual fees for educational entry permit shall be as specified by commission
16 regulation under the authority of sec. 160 of this chapter.

17 Sec. 16.43.360. DISPOSITION OF FISH. Fish caught under the authority of an
18 educational entry permit are the property of the recipient of the permit; which
19 may sell the fish and use the proceeds to pay for the costs of the training program.

20 Sec. 16.43.365. ACCOUNTING OF HARVEST. The recipient of an educational entry permit
21 shall report to the commission costs and earnings, amount of harvest and such other
22 information the commission requires to monitor fishing operations of recipients of
23 educational entry permit.

24 Sec. 16.43.370. ADOPTION OF REGULATIONS. (a) Use privileges granted under secs.
25 350 -375 of this chapter shall be subject to the regulations of the Board of Fisheries
26 which may adopt regulations exclusively applicable to the use of educational entry
27 permits.

28 (b) The commission shall promulgate regulations relating to the issuance of
29 educational entry permits, establishing eligibility criteria for recipients thereof,

1 and such other matters as are reasonably necessary to implement secs. 350 - 375
2 of this chapter.

3 Sec. 16.43.375. DEFINITIONS. For the purposes of secs. 350 - 375 of this chapter,
4 the term

5 (1) "recipient" means the entity to which an educational entry permit is issued;

6 (2) "administrative area" means those areas as defined by commission regulation.

7 * Section 3. This Act takes effect immediately in accordance with AS 01.10.070(c).
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Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMO: May 18, 1978

TO: Legal Services, Bill Berrier

FROM: House Judiciary, Bob Speed, A.A.

RE: HB 975 Entry permits for educational purposes
SB 428am Interim Use permits, entry permits and
vessel licenses

The Judiciary Committee currently has the above-mentioned bills under consideration. Chairman Gardiner has requested a legal opinion on combining the two bills by amending HB 975 onto SB 428am.

We request a written opinion on the above amendment; if Legal Services sees no problem, the Committee will request a CS incorporating the intent of both bills.

It is also requested that the attorney handling the above matter be available in the event he is needed during committee consideration of the bill, which will probably be early next week.