

HB

206

ALASKA STATE LEGISLATURE

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OFFICIAL BUSINESS

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House Bill 206 Sponsor Statement

"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

HB 206 establishes a vessel-based commercial fisheries limited entry program. The bill preserves the State's current limited entry program as the primary form of limitation, and authorizes the Commercial Fisheries Entry Commission (CFEC) to implement a vessel-based limitation in a fishery only under certain tightly defined conditions.

In its bill enacting the Hair Crab moratorium in 1996, the Legislature recognized the need to establish a vessel-based limitation program and directed CFEC and the Department of Law to draft and bring to the Legislature legislation to accomplish that. Such legislation was drafted but failed to gain passage during the 21st Session. HB 206 reintroduces enabling provisions for this important fisheries management tool

Under the current limited entry statute, CFEC may only issue limited entry permits to gear operators in a fishery, not to vessels or vessel owners. This type of limited entry system, based on an "owner-operator" model, is appropriate for fisheries where typically vessels are small and fished by one person usually in nearshore waters. But other fisheries in Alaska, particularly some of those in the Gulf of Alaska and the Bering Sea, are characterized by larger vessels fishing in offshore waters. These vessels move from area to area and may be operated by successive skippers hired by vessel owners to keep the vessel fishing throughout a season. Current law may not be appropriate or workable for this kind of fishery; in fact, it could potentially increase rather than limit the units of gear and not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Further, it would award ongoing fishing privileges to many who have worked essentially as hired crew, and not those who have invested in the fishery.

The bill establishes the framework for a vessel-based limitation system, much as existing law provides the framework for the operator-based program. One important feature included in the bill is a "second generation" provision whereby permits may be transferred only to a natural person who holds an ownership interest in the vessel, and who must subsequently be onboard the vessel when it is fishing. Effective fishery management tools, such as those authorized in HB 206, will help ensure the State has the flexibility to effectively manage a wide range of fisheries and, in some fisheries, to gain or retain State management authority in the years ahead.

Introduced 3/21/2001
Prepared by Co-chairman Drew Scalzi

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House Resources Committee
Drew Scalzi, Beverly Masek , co-chairs

Re; HB206
Testimony of Paul Seaton, 58395 Bruce Street, Homer AK 99603,
Ph907 2356342
April 3, 2001

Thank you Mr. Scalzi for the invitation to submit written comments prior to the consideration of HB 206 by the committee. I also include in this written testimony points that were discussed at the Fisheries Committee consideration of this bill.

When limited entry was introduced in 1973 the complexion of the industry was much the same as is stated by proponents of this bill for the necessity for vessel owner, corporate, permits. That is, the corporate canneries owned most of the salmon drift vessels in Cook Inlet and Bristol Bay. The argument is that the investment was by the vessel owner corporation [salmon canneries]. Now the same argument is that the investment is by vessel owner corporations [and processors] for scallops. The only difference is that the salmon canneries owned a fleet of small boats while the scallop corporations own one, or several, larger boats. The State specifically decided to empower the fishermen and not the investor by only granting limited entry permits to natural persons who must be actively involved in the harvest. This decision determined the course of development of the Alaskan fisheries, led to a now owner operated fleet, and a move away from corporate control by absentee owners of the lives of fishermen.

I therefore take strong exception to the assertion in the Sponsor Statement "...It would award ongoing fishing privileges to many who have worked essentially as hired crew, and not to those who have invested in the fishery." That statement implies that the State was wrong in empowering fishermen. I have no doubt that if this provision had been included in the original plan it would have been voted down in 1973, as it should be now.

Although the point of this testimony is not to present alternatives to accomplish the findings for the bill, I wish to point out that the situation has greatly changed since the original moratorium was enacted. At that time there was no way to limit entry into the federal fisheries which are the predominate subject of this bill. Now, the Federal License Limitation Program (LLP) is in place for groundfish and crab fisheries. This program allows designation by gear type, area, and species endorsements. So a simple solution is to have the members of these industries petition the North Pacific Fisheries Management Council to add a species and possibly area endorsement based on past participation to the current LLPs. The need for State action no longer exists to accomplish their desired goals.

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This in no way affects the ability of the State to manage those fisheries for the NPFMC as its management designee. In fact, the State currently manages all Bering Sea crab fisheries but any participant in those federal waters is required to have a federal crab LLP. That system works well and no one is suggesting that the State needs to superimpose another State Limited Entry Permit in order to have the ability to manage that huge fishery.

HB 206

I dispute the validity of the FINDINGS 1 and 2.

I dispute FINDING 5. I give as example the State water sablefish fisheries on the North Gulf Coast and the Aleutian Islands. The federal vessel owner based system exists side by side with a State waters fishery that has proven to be very manageable and beneficial to small coastal Alaskan vessels from our local communities.

I give as further example the State waters Pacific cod fishery which exists in five management areas and regulates up to 25% of the Gulf of Alaska total allowable catch - determined jointly for federal and State waters. This exists alongside the federal waters vessel LLP but uses gear restriction, vessel size, and sometimes-different seasons and has been the greatest fishery boon to coastal communities and small boat fishermen for extended opportunity along the entire Gulf coast. The Board of Fishery developed this fishery predominately in response to the detrimental effects of the vessel-owner based systems developed for federal waters. We should not inflict those same type problems on our coastal fishermen by being co-opted into mirroring the federal system from which our fishermen seek relief.

ARTICLE 6A,

Sec.16.43.460 page 5 lines 3 - 6.

I cannot believe that this substitution clause remain intact -only allowing substitution if the original vessel was lost. If a corporation removed one vessel and used another, do they loose all claims, or do they have to sink the vessel. I do not see the point in this since after permit issuance the vessel owner can transfer his permit to a larger, more powerful, vessel without restriction by Sec.16.43.490.

Sec.16.43.470 line 15 - 17. (2) "promote" (B) "broad access to the fishery;"

This is the exact opposite of the true goal of this bill, to restrict access to the narrowest number of vessels. It underlies a rejection of the using of area fished by the operator to restrict expansion of effort while allowing past operators to get their own vessel for fishing one area. [To better explain this consider the scallop vessel that use several operators per year. Generally an operator has expertise in an area, Southeast, Kodiak, etc. If the permit was by area to the fisherman (operator), the state might

issue 4 permits but each would be for the one area that operator fished and thus the 4 permits would still just let one vessel fish the whole state – or over time this might turn into 4 smaller local vessels fishing scallops in only one area each.]

Sec. 16.43.480 page 6 line 10 – 13.

This requires the purchaser of a permit to buy that particular vessel as well as the permit. This does not make any sense. If a person had multiple uses of his vessel, he could never sell his permit and remain fishing.

The ownership provisions in the federal system have proven to be totally ineffective. At first people "sold" 1% of their vessel to IFQ holders so they could harvest the IFQ shares without the 'owner' being on-board. Then the NPFMC raised the limit to 20%, but it is just a name and number on paper and can be added and removed for the \$150 documentation fee. This owner provision is the subject of great abuse in the federal system. If they can't make it work I don't know why the State will have any better success with the same provision.

(b) line 14

As stated by the CFEC, most of the vessels currently in question are corporate owners. Though the permit cannot be sold to another entity, the entire corporation can be acquired by a holding corporation and thus enable relatively easy transfer without the State ever knowing. If for some reason they are 'caught' the penalty on line 22 is that the permit is transferred back to the original entity.

If you want this system to go towards fisherman (owner-operator) as the bill purports for the future, any transfer to another vessel or other owner should trigger the 'only to a natural person' who must be on board provision.

SEC 16.43.490 p 7, line 11 – 24

As stated above, this provision should be entirely eliminated. If the intent is to ease this fleet into owner-operator status as stated in the Sponsor Statement and declarations by CFEC, granting such provision for the life of the vessel or until a person or vessel removes from the fishery in question is ample allowance. This provision would allow the existing corporate complexion of the fleet to continue indefinitely. Granting the vessel an absentee owner permit for the qualifying vessel's life only (without exception for loss, fire, sale etc) is a generous compromise to this corporate fleet and no substitutions should be allowed at all.

I am opposed to HB206 as unnecessary and as anathema to the State's explicit provisions to empower fishermen, and believe the consequences of adoption of HB206 would negatively influence many fisheries throughout Alaska.

Paul K. Seaton

79313

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB206
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title: Vessel Limited Entry for Commercial Fisheries BRU: Comm Fish (Limited) Entry Comm
 Component: Comm Fish (Limited) Entry Comm
 Sponsor: House Resources
 Requester: House Fisheries Component Number: 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Roger Kolden Phone 790-6950
 Division: Commercial Fisheries Entry Commission Date/Time 3/23/01 12:51 PM
 Approved by: Mary McDowell Date 03/23/2001
 Agency: Commercial Fisheries Entry Commission

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MEMORANDUM

March 22, 2001

SUBJECT: Sectional Summary of HB 206, an Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of "person" for purposes of the commercial fisheries entry program (HE 206)

TO: Representative Drew Scalzi
Attn: Pat Hartley

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of HB 206, an Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of "person" for purposes of the commercial fisheries entry program.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the legislature in regard to the bill.

Section 2 of the bill amends AS 16.43 by adding a new article relating to a vessel permit system.

Sec 16.43.450 provides that the Alaska Commercial Fisheries Entry Commission may establish a vessel permit system under certain circumstances for a fishery under state management or for a fishery that occurs in the United States exclusive economic zone or in both the United States exclusive economic zone and state waters. The commission may restrict the fishery resources that may be taken under the permit, the types of gear that may be used under the permit, and the areas that may be fished under the permit. The commission in consultation with the Department of Fish and Game may also restrict the fishing capacity or effort of a vessel that can be used under a vessel permit. The commission may limit the number of vessel permits that a permit holder or group of related permit holders may hold if necessary to prevent concentration of ownership of vessel permits.

Sec. 16.43.460 provides that the commission shall establish qualifications for receiving a vessel interim-use permit or a vessel entry permit and for receiving a transferable vessel permit. Pending the issuance of vessel entry permits for a fishery, the commission shall

Sectional Analysis

Representative Drew Scalzi

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issue vessel interim-use permits for vessels that are potentially eligible to receive a vessel entry permit. The commission shall issue vessel entry permits to the owner of each vessel that the commission finds is eligible to receive a vessel entry permit. The commission shall adopt regulations regarding the determination of who is to receive a vessel permit for a vessel if there are competing claims to ownership of a vessel and to the right to receive the vessel permit. The commission shall also adopt regulations regarding the substitution of another vessel for a vessel that was used to establish eligibility for a vessel permit if the qualifying vessel is lost before the issuance of vessel entry permit for the qualifying vessel. The commission may incorporate some of the current vessel eligibility criteria applicable to the Bering Sea Korean hair crab fishery and the scallop fishery, if the commission establishes a vessel permit system for those fisheries.

Sec. 16.43.470 provides that the commission shall establish an optimum number range of vessel entry permits for a fishery, if the fishery experiences a long-term biological or economic change after the initial issuance of vessel entry permits for the fishery. The commission shall reduce or increase the number of vessel entry permits that are issued for a fishery, as necessary to bring the number of issued vessel entry permits within the optimum number range. If necessary to increase the number of permits to bring the number of permits into the range, the commission shall obtain fair market value for the new vessel entry permits that are issued.

Sec. 16.43.480 provides for the transfer of transferable vessel entry permits. Natural persons and entities may obtain vessel entry permits at the time of initial issuance of vessel entry permits for a fishery but an entity may subsequently receive vessel entry permits only under certain conditions. The commission may adopt regulations regarding the transfer of vessel entry permits, substitution of vessels, and expiration of nontransferable entry permits.

Sec. 16.43.490 provides that the commission may adopt regulations relating to the temporary and permanent substitution of vessels after the initial issuance of vessel entry permits.

Sec. 16.43.500 provides for the renewal of vessel interim-use permits and vessel entry permits. Failure to renew a vessel entry permit may result in forfeiture of the permit except under certain conditions.

Sec. 16.43.510 authorizes the commission to establish fees for the issuance, renewal, and application for vessel interim-use permits and vessel entry permits.

Sec. 16.43.520 sets out general provisions that are applicable to all vessel permits, and the vessel permit system.

Section 3 of the bill amends AS 16.05.735 to provide that the state may assume management of a fishery in the offshore waters adjacent to the state if there is no federal

Representative Drew Scalzi

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fishery management plan for the fishery or if the federal government delegates authority to the state to manage the fishery.

Sections 4 - 8 of the bill make technical and conforming amendments to various provisions of AS 16.43 in order to reflect the establishment of the vessel permit system under sec. 2 of the bill.

Sections 9 - 15 of the bill make various technical and conforming amendments to several subsections of AS 16.43.970 in order to reflect the establishment of the vessel permit system under sec. 2 of the bill and the fact that entities are allowed to hold vessel permits.

Section 16 of the bill amends AS 16.43.980(a) to make technical and conforming amendments to reflect the establishment of the vessel permit system under sec. 2 of the bill.

Section 17 of the bill amends AS 16.43.990(5) to clarify the definition of "person" for purposes of AS 16.43.

Section 18 of the bill adds a new paragraph that adds a definition of "entity" to AS 16.43.990 for purposes of AS 16.43.

Section 19 of the bill provides that the Alaska Commercial Fisheries Entry Commission may adopt regulations necessary to implement provisions of the Act; however the regulations may not take effect before July 1, 2002.

Sections 20 and 21 of the bill provide that sec. 19 of the bill takes effect immediately and that the remainder of the bill takes effect July 1, 2002.

GU:med
01-002.med

Alaska State Legislature

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House Resources Committee

Introduced March 22, 2001
Prepared by Rep. Drew Scalzi

House Bill 206

"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

Bill Explanation

As new fisheries are developed in Alaska and existing fisheries evolve, it is sometimes necessary to augment the fishery management tools available to ensure the state has the ability to provide for the sound management of the resource and the long-term health of the fisheries. HB 206 provides such a tool.

Under the current limited entry statute, AS 16.43, the Commercial Fisheries Entry Commission (CFEC) issues limited entry permits only to persons who are gear operators in a fishery, but not to vessels or vessel owners (although in many fisheries the gear operator is also the owner of the vessel used). This type of limited entry system, based on an "owner-operator" model, is appropriate for such fisheries as salmon and herring fisheries where vessels are typically fished by only one person in a season and vessels tend to be small, owned by the operator, and usually fished in nearshore waters.

Other fisheries in Alaska, particularly some of those in the Gulf of Alaska and the Bering Sea, are characterized by larger vessels fishing in offshore waters. In these fisheries, vessels move from area to area and may be operated by successive skippers hired by vessel owners to keep the vessel fishing throughout a season. A limitation in the form authorized under current law may not be appropriate or workable for this kind of fishery. In fact it could potentially increase rather than limit the units of gear in such fisheries and therefore not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Further, it would award fishing privileges to many who have worked essentially as hired crew in the fishery, and not those who have invested in the fishery.

**Detailed Sponsor
Statement**

The Alaska Legislature recognized these problems when it enacted temporary vessel moratoria in the weathervane scallop fishery (AS 16.43.906) and the Bering Sea Korean hair crab fishery (AS 16.43.901). Fishers had petitioned the commission to limit entry in these two fisheries, but CFEC was not authorized to implement a program that limited vessels in a fishery instead of persons. The Legislature responded to the fishers' requests by establishing a four-year vessel moratorium in each fishery. Last year the legislature extended the two moratoria in recognition that they would otherwise expire with no workable method of limiting such fisheries in place. The vessel moratoria for the Bering Sea Korean hair crab fishery and the scallop fishery are now set to expire in 2003 and 2004 respectively. Enabling legislation for a vessel-based limitation program will need to be enacted soon if there is to be time to propose and adopt limitations for these fisheries before these moratoria expire.

In the legislation that originally established the Korean hair crab vessel moratorium, the legislature directed the Department of Law and CFEC to draft and bring to the legislature legislation establishing a vessel permit limited entry program that could be used when the current limited entry program would not effectively achieve the purposes of the Limited Entry Act. Such legislation was developed but did not gain passage during the 21st legislative session. HB 206 would provide the limitation tool sought by fishermen and by the legislature in its 1996 directive.

While HB 206 preserves the state's current limited entry program as the primary form of limitation, it provides the option of implementation of a vessel-based limitation program in a fishery under certain tightly defined conditions. The bill authorizes the use of the vessel permit limited entry system in a state managed fishery only if the commission determines that: (1) limitation is necessary in the fishery, (2) the vessel-based program would achieve the purposes of the Limited Entry Act (i.e. conservation of the resource and to avoid economic distress), and (3) limitation under the current operator-based program would *not* achieve those purposes. The bill also authorizes the use of the vessel-based program in a fishery that occurs in the U.S. exclusive economic zone (EEZ) or in both the EEZ and state waters *if* (1) limitation is needed, (2) the vessel-based program would achieve the purposes of the Limited Entry Act, and (3) the vessel limitation would enable the state to gain or retain management of the fishery.

The bill establishes the framework for a vessel-based limitation system, much as existing law provides the framework for the operator-based program, including provisions regarding the application process, initial issuance of permits, transferring of permits after initial issuance, establishing and adjusting the optimum number of permits, defining terms, and so on. One important feature included in the bill is a "second generation" provision whereby permits may be transferred only to a natural person and that person must hold an ownership interest in the vessel. (An exception is for the "stacking" of initially issued permits for use on one vessel, such as in the case where a vessel owner adds additional permits for a different

species, area, or gear type.) So while vessel permits may be initially issued to whatever person or entity (company, partnership, etc) owns the vessel upon the qualification date, generally those permits may subsequently only be transferred to a human being, much like the existing limited entry program wherein only individual persons may hold entry permits. Also included in the bill are provisions for vessel substitutions and permit fees and penalties.

HB 206 authorizes the state to assume management of offshore fisheries in the EEZ in the absence of a federal fishery management plan for the fishery, and when management authority for a fishery in the EEZ is delegated to the state. The scallop and Korean hair crab fisheries occur in both state waters and in adjacent federal waters of the EEZ. Management of the scallop fishery in the EEZ was delegated to the state by the federal scallop fishery management plan. Because the Bering Sea Korean hair crab fishery did not have a fishery management plan, the state assumed management of the fishery in the EEZ under provisions in the Magnuson-Stevens Fishery Management and Conservation Act. This bill will better position the state to take advantage of fishery management opportunities that may arise in the future.

Without HB206, CFEC does not have an appropriate limited entry program to use for fisheries such as Korean Hair Crab and scallops. Without a vessel permit system in place, those fisheries will likely have to be reopened to a potential influx of new participants upon expiration of the moratoria. Expeditious passage of this legislation is important if the State is to protect the resource and Alaska fishermen currently dependent on these fisheries.

Effective fishery management tools, such as those authorized in HB 206, will help ensure the State has the flexibility to manage a wide range of fisheries effectively and, in some fisheries, to gain or retain state management authority in the years ahead.

22-LS0426\B
Utermohle
1/30/02

2d CS FOR HOUSE BILL NO. 206(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to
3 management of offshore fisheries, and to the definition of 'person' for purposes of the
4 commercial fisheries entry program; and providing for an effective date."

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

6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
 2 commission may limit, as the commission determines appropriate, the fishery
 3 resources that may be harvested under the vessel permit, the types of gear that may be
 4 used under the vessel permit, or the areas where fishing may occur under the vessel
 5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
 7 fished are established for individual vessel interim-use permits and vessel entry
 8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
 10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after ^{approval from} ~~consultation with~~ the Department of Fish and
 12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
 13 permit or a vessel entry permit if the commission finds that limitations on fishing
 14 capacity or effort are necessary to achieve the purposes of this chapter. The
 15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
 16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
 17 effort are established for individual vessel interim-use permits and vessel entry
 18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
 20 permits that may be held by a permit holder or group of related permit holders if the
 21 commission finds that limiting the number of vessel permits that may be held by a
 22 permit holder or group of related permit holders is necessary to prevent the excessive
 23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
 25 which the commission establishes a vessel permit system under AS 16.43.450, the
 26 commission shall establish qualifications for vessel interim-use permits and vessel
 27 entry permits. The qualifications may include a qualification date, eligibility period,
 28 recent participation requirements, minimum requirements for the nature and degree of
 29 ownership interest that a permit holder must have in a vessel in order to receive a
 30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable
 31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature
6 of the fishery, and the need to ensure the manageability of the fishery and conservation
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is subject to a moratorium on entry of new vessels under
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee and establishing the terms and conditions under
6 which vessel entry permits may be transferred. The commission may require that the
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel
8 identified on the vessel entry permit. The commission may establish by regulation
9 minimum requirements for the nature and degree of ownership interest that the
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous
12 transfer of a transferable vessel entry permit to an eligible transferee and the
13 substitution of another vessel for the vessel identified on the permit under
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission ^{SHALL} may adopt
18 regulations providing for the permanent or temporary substitution, after the initial
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
20 vessel entry permit. The commission may specify by regulation the nature and degree
21 of legal ownership interest that a permit holder must have in the vessel that is
22 permanently or temporarily substituted for the vessel identified on the permit. Upon
23 the approval of a permanent substitution of a vessel, the commission shall issue a new
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject
26 to all terms and conditions attached to the vessel entry permit at the time that the
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
4 by the commission for good cause. If an administrative closure of a fishery occurs for
5 an entire season, the commission may not count the season toward the two-year
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry
9 permits. Annual fees established under this subsection may not exceed \$2,500 and
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel
12 interim-use permit or a vessel entry permit for a fishery in which there was an
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for
15 processing applications for vessel interim-use permits and vessel entry permits, for
16 transfer of vessel entry permits, and for permanent and temporary substitution of
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate
19 of interest established in AS 45.45.010(a) on fees established under the section that are
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate
24 vessel permit has been issued for the vessel and is posted in a prominent location on
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is
29 consistent with regulations of the commission regarding concentration of ownership of
30 vessel permits in the fishery; and

31 *good* (2) either

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(A) the person or entity qualified for each vessel entry permit at the time of the initial issuance of vessel entry permits for the fishery; or

(B) the vessel entry permits are issued for a vessel for which the person or entity already holds another vessel entry permit for that fishery.

(c) The operator of a vessel for which a vessel interim-use permit or vessel entry permit has been issued shall comply with the terms of the vessel permit while the vessel is operated in the fishery for which the permit is issued.

(d) A vessel interim-use permit and a vessel entry permit constitute a use privilege that may be modified or revoked by order of the commission or by law without compensation.

(e) A vessel entry permit may not be *Permits not vessel?*
(1) pledged, mortgaged, leased, or encumbered in any way;
(2) transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

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

(f) Unless the person who holds a vessel entry permit has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the person, transfer the vessel entry permit by right of survivorship directly to the person's surviving spouse or, if no spouse survives, to another person designated by the vessel permit holder on a form provided by the commission. If no spouse survives and if the person designated on the form, if any, does not survive, the permit passes as part of the vessel permit holder's estate. A designation under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the vessel permit holder. A vessel entry permit is exempt from the claims of creditors of the estate.

(g) ~~AS 16.43.450 - 16.43.520~~ do not alter the requirement for an interim-use permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 - 16.05.520

(h) ~~Nothing in AS 16.43.450 - 16.43.520~~ limits the powers of the Board of

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Fisheries or the Department of Fish and Game.

(i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may release to the owner of a vessel information on the vessel's history of harvests in a fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit unde. AS 16.43.450 - 16.43.520.

* Sec. 3. AS 16.05.735 is amended to read:

Sec. 16.05.735. Management of offshore fisheries. The state may assume management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to the state in the absence of a federal fishery management plan for the fishery [SCALLOPS] or in the event that a federal fishery management plan for the fishery [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP FISHERIES] in the United States exclusive economic zone.

Yes - asserts state's rights

* Sec. 4. AS 16.43.010(a) is amended to read:

(a) It is the purpose of this chapter to promote the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry of participants and vessels into the commercial fisheries in the public interest and without unjust discrimination.

Justification to specify substitution language rather than the description of the commission

* Sec. 5. AS 16.43.100(a) is amended to read:

- (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
 - (1) regulate entry into the commercial fisheries for all fishery resources in the state;
 - (2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;
 - (3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;
 - (4) establish, for all types of gear, the maximum number of entry permits for each administrative area;
 - (5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

- 1 (6) establish qualifications for the issuance of entry permits;
- 2 (7) issue entry permits to qualified applicants;
- 3 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 4 and 16.43.225;
- 5 (9) establish, for all types of gear, the optimum number of entry
- 6 permits for each administrative area;
- 7 (10) administer the buy-back program provided for in AS 16.43.310
- 8 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 9 number of entry permits;
- 10 (11) provide for the transfer and reissuance of entry permits to
- 11 qualified transferees;
- 12 (12) provide for the transfer and reissuance of entry permits for
- 13 alternative types of legal gear, in a manner consistent with the purposes of this
- 14 chapter;
- 15 (13) establish and administer the collection of the annual fees provided
- 16 for in AS 16.43.160;
- 17 (14) administer the issuance of commercial fishing vessel licenses
- 18 under AS 16.05.490;
- 19 (15) issue educational entry permits to applicants who qualify under
- 20 the provisions of AS 16.43.340 - 16.43.390;
- 21 (16) establish reasonable user fees for services;
- 22 (17) issue landing permits under AS 16.05.675 and regulations adopted
- 23 under that section;
- 24 (18) establish and collect annual fees for the issuance of landing
- 25 permits that reasonably reflect the costs incurred in the administration and
- 26 enforcement of provisions of law related to landing permits; [AND]
- 27 (19) establish a moratorium on entry into commercial fisheries as
- 28 provided in AS 16.43.225; and
- 29 (20) administer, when necessary to accomplish the purposes of this
- 30 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

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

1 (b) When the commission finds that a fishery, not designated as a distressed
2 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
3 reached levels of participation that require the limitation of entry under AS 16.43.140
4 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
5 establish the maximum number of entry permits for that fishery.

6 * Sec. 7. AS 16.43.240(c) is amended to read:

7 (c) When the commission finds that a fishery subject to a moratorium under
8 AS 16.43.225 has reached levels of participation that require the limitation of entry
9 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
10 commission shall establish the maximum number of entry permits for that fishery.

11 * Sec. 8. AS 16.43.960(a) is amended to read:

12 (a) The commission may revoke, suspend, or transfer all entry or interim-use
13 permits, vessel entry permits, or vessel interim-use permits held by a person or
14 entity who knowingly provides or assists in providing false information, or fails to
15 correct false information provided to the commission for the purpose of obtaining a
16 benefit for self or another, including the issuance, renewal, duplication, or transfer of
17 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
18 interim-use permit. The commission may suspend, as appropriate, that person's or
19 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
20 vessel interim-use permit for a period not to exceed three years, and may impose an
21 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION
22 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
23 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
24 knowingly provide or assist in providing false information, or fail to correct false
25 information provided, to the commission for the purpose of obtaining a benefit.

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

27 (a) A person who violates a provision of this chapter or a regulation adopted
28 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
29 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
30 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
31 first conviction, and a fine of not more than \$10,000 for a second or third conviction.

1 Upon a first or second conviction under this subsection, the court may in its discretion
2 also order the commission to suspend the commercial fishing privileges of the person
3 or entity for a period of not more than three years and to revoke one or more or all
4 commercial fishing permits held by the person or entity. Upon a third or subsequent
5 conviction under this subsection, the person or entity is also subject to a loss of
6 commercial fishing privileges as provided under (i) of this section. This subsection
7 does not apply to violations of AS 16.43.140(a).

8 * Sec. 10. AS 16.43.970(b) is amended to read:

9 (b) A person or entity who knowingly makes a false statement to the
10 commission for the purpose of obtaining a benefit, including the issuance, renewal,
11 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
12 interim-use permit. or vessel entry permit, or a person who assists another by
13 knowingly making a false statement to the commission for the purpose of obtaining a
14 benefit for another, is guilty of the crime of unsworn falsification as set out in
15 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
16 commercial fishing privileges and revocation of commercial fishing permits under (i)
17 of this section.

18 * Sec. 11. AS 16.43.970(d) is amended to read:

19 (d) If a permit holder is charged by the state with violating a provision of this
20 chapter or a regulation adopted under this chapter, the holder may not transfer [,
21 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
22 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
23 final adjudication or dismissal of the charges.

24 * Sec. 12. AS 16.43.970(e) is amended to read:

25 (e) Notwithstanding any other provision of this section, an interim-use or entry
26 permit or transferable vessel entry permit may not be transferred while under
27 suspension, without the consent of the commission.

28 * Sec. 13. AS 16.43.970(f) is amended to read:

29 (f) A commercial fishing entry permit revoked under this section that is
30 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
31 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

1 * Sec. 14. AS 16.43.970(i) is amended to read:

2 (i) Upon the conviction of a person or entity for an offense described under
3 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
4 conviction. The notice provided by the court shall be accompanied by an order
5 suspending commercial fishing privileges and revoking commercial fishing permits
6 under (a) of this section, as appropriate. The commission shall, upon receipt of

7 (1) an order from the court under (a) of this section, suspend the
8 commercial fishing privileges of a person or entity for the period set by the court and
9 revoke commercial fishing permits held by the person or entity as directed by the
10 court;

11 (2) a notice from the court that a person or entity has been convicted
12 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
13 privileges of the person or entity for a period of three years from the date of
14 conviction and revoke all commercial fishing permits held by the person or entity;

15 (3) a notice from the court that a person or entity has been convicted
16 of a violation described under (b) of this section, suspend all commercial fishing
17 privileges of the person or entity for a period of three years from the date of
18 conviction and revoke all commercial fishing permits held by the person or entity;

19 (4) a notice from the court that a person has been convicted of a
20 violation described under (g)(1) of this section, suspend all commercial fishing
21 privileges of the person for a period of one year from the date of conviction;

22 (5) a notice from the court that a person has been convicted of a
23 violation described under (g)(2) of this section, suspend all commercial fishing
24 privileges of the person for a period of two years from the date of conviction;

25 (6) a notice from the court that a person has been convicted of a
26 violation described under (g)(3) of this section, suspend all commercial fishing
27 privileges of the person for a period of five years from the date of conviction.

28 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

29 (1) "commercial fishing permit" means an entry permit, [OR] an
30 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
31 under this chapter;

1 * Sec. 16. AS 16.43.980(a) is amended to read:

2 (a) The commission shall prepare an annual report and notify the legislature
3 that it is available. The report must [SHALL] include but not be limited to the
4 following:

5 (1) a progress report on the reduction of entry permits to optimum
6 levels;

7 (2) recommendations for additional legislation relating to the
8 regulation of entry of participants and vessels into Alaska commercial fisheries.

9 * Sec. 17. AS 16.43.990(5) is amended to read:

10 (5) "person" means a natural person; "person" [AND] does not
11 include a corporation, company, partnership, firm, association, organization, joint
12 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
13 person;

14 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

15 (10) "entity" means a corporation, company, partnership, firm,
16 association, organization, joint venture, trust, society, or other legal entity, other than a
17 natural person.

18 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).

Proposed Amendments for 2nd CS HB-206
Representative Masek

Page 6; line 17: The commission shall [MAY] adopt .

Rationale: This ensures that the commission will provide opportunity for the leasing of vessels.

Page 3; line 11: The commission may, after approval from [~~CONSULTATION WITH~~] the Department of Fish and Game.

Rationale: Once this bill takes effect, regulation of fishing capacity will no longer fall under the jurisdiction of the moratorium. The Department of Fish and Game currently has adopted a position on this issue that is very similar to that of the Federal regulations.

not done

Proposed Amendments for 2nd CS HB-206
Representative Masek

#1
passed

Page 6; line 17: The commission shall [MAY] adopt .

Rationale: This ensures that the commission will provide opportunity for the leasing of vessels.

#2

Page 3; line 11: The commission may, after approval from [CONSULTATION WITH] the Department of Fish and Game.

Rationale: Once this bill takes effect, regulation of fishing capacity will no longer fall under the jurisdiction of the moratorium. The Department of Fish and Game currently has adopted a position on this issue that is very similar to that of the Federal regulations.

Proposed Second House Resources CS for HB 206 (Work Draft 22-LS0426\B)

The primary focus of the changes being proposed to the version of HB206 adopted by the House Resources committee in 2001 is removal of the so-called "second-generation" provision. The goal of that provision was to provide a mechanism whereby fisheries limited under the vessel-based limited entry system authorized by the bill, would, over time, evolve increasingly toward being 'owner-operator' in character. Alaska's current limited entry program is based on the owner-operator model, (which is characteristic of Alaska's salmon fisheries and most other state-managed fisheries), and is designed to perpetuate that character in fisheries after limitation. The second-generation provision was primarily included in the original HB206 because that bill provided generic authority to the Commercial Fisheries Entry Commission (CFEC) to use this new vessel-based limited entry system in any fisheries in the future that met criteria specified in the bill.

After considerable deliberation, the House Resources Committee amended HB206 just before moving it from committee to narrow the scope of the bill to authorize the use of the vessel-based program ONLY for limitation of the scallop and Korean Hair Crab fisheries. The committee substitute version of the bill removed authority for the commission to use the vessel-based program to limit any other fisheries. The scallop and hair crab fisheries are not currently owner-operator in nature. Applying the "second-generation" criteria to permit transfers in these fisheries would be cumbersome, at best. Vessel owners in these fisheries have raised concern about impacts of the provision and asked that it be removed, now that the bill pertains only to these 2 fisheries.

The proposed Second Resources CS (Work Draft 22-LS0426\B) is substantially the same as the first Resources CS as the program authorized is virtually the same and the draft bill still authorizes the use of the vessel-based limitation program only for the scallop and hair crab fisheries. The primary focus of the revisions proposed in the draft is removal of the second-generation provision. Thus, if one or both of these two fisheries were to be limited under this program, a holder of a vessel entry permit would not be restricted to transferring the permit only to an individual human being, but would be able to transfer the permit to a partnership, company, or other "entity." Over time, ownership patterns in the fishery would likely stay very similar to what they are today.

Most other revisions proposed in the draft second CS are simply changes needed to make other provisions of the bill consistent with the removal of the second-generation provision or to provide clarity. The comparison on the following two pages explains each change proposed in the work draft.

Work Draft 22-LS0426\B makes the following changes to CSHB206(RES):

P.4, line 30, after “vessel,” insert: “or vessels”

Purpose of change: Acknowledges that participation using more than one vessel may be counted toward eligibility for a vessel permit.

P.4, line 31, change “is” or “are” and insert after “lost,”: “or are retired from the fishery by the vessel owner,”

Purpose: Allows flexibility in situations where a vessel leaves the fishery due to a decision of the owner to retire the vessel from the fishery, rather than to the sinking of the vessel.

P.6, line 5, insert “and establishing the terms and conditions under which vessel entry permits may be transferred. The commission may require that”

Purpose: Makes clear that commission has authority to set requirements such as having permit transfer paperwork come through the commission, just as all transfers of limited entry permits must do now, and to require information about ownership of the entity to which a permit is being transferred. This is necessary to ensure compliance with provisions such as those aimed at preventing excessive concentration of ownership.

Adding “commission may require that,” would allow flexibility for vessel permit holders to lease, rather than own a vessel in the future. This may help make it possible for those who can't afford to purchase both a permit and a vessel to enter the fishery.

P. 6, after line 10 – delete the ‘second-generation’ language that in HB 206 and in CSHB206(RES) (p.6, lines 9-28 of CS) prohibited the transfer of vessel permits to ‘entities’ (anything other than one human being).

Purpose: See explanation on previous page.

P. 6, delete provision that commission may prohibit involuntary transfers (p.7, line 2-3 of Res CS)

Purpose: Issue is covered more thoroughly in new provisions on p. 8 of draft bill.

P. 6, lines 20-22: sentences combined and reworded (for clarity), and added “may” in line 20.

Purpose of adding “may”: Provides flexibility to allow permit holders to use a leased vessel, partner with someone else who owns the vessel, or participate in some other arrangement besides owning both the permit and part or all of the vessel to be used.

Deleted lines 24-25 of p.7 of Res CS.

Purpose: To be consistent with removal of second generation provision.

Deleted p.8, lines 18-21 of Res CS.

Purpose: To be consistent with removal of second-generation language as future permit holders can be entities, rather than persons, so can't require to that vessel owner be on board.

P. 8, inserted lines 11-27

Purpose: Added language that mirrors provisions in current limited entry statute to make it clear that vessel entry permits, like limited entry permits, constitute a "fishing privilege," not property, and to provide right of survivorship and other provisions for transfer of a permit upon the death of the permit holder in circumstances where holder of the vessel entry permit is a natural person, rather than an entity.

P. 10, lines 29-30, insert: "when necessary to accomplish the purposes of this chapter,"

Purpose: Recognizes that CFEC may or may not opt to utilize the vessel entry permit system authorized by this bill. If CFEC opts to not limit the two subject fisheries at all, or opts not to use this alternate program for either one, there would be no need to require the commission to "administer a vessel permit system."

P. 14, line 18, replace staggered effective dates with one immediate effective date for whole bill.

Purpose: The more elaborate effective date clauses were included in original bill because it provided "generic authority" and because, at the time of introduction, the moratoria in the scallop and hair crab fisheries were to expire soon. With the narrowed scope of bill, and the extensions made by the legislature to the two moratoria, the bill now needs only a simple immediate effective date for all sections of the bill.

2d CS FOR HOUSE BILL NO. 206(RES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY THE HOUSE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to
3 management of offshore fisheries, and to the definition of 'person' for purposes of the
4 commercial fisheries entry program; and providing for an effective date."

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

6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * **Sec. 2.** AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;
20 and

21 (3) either
22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or
24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area. the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent participation requirements, minimum requirements for the nature and degree of
29 ownership interest that a permit holder must have in a vessel in order to receive a
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature
6 of the fishery, and the need to ensure the manageability of the fishery and conservation
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is subject to a moratorium on entry of new vessels under
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee and establishing the terms and conditions under
6 which vessel entry permits may be transferred. The commission may require that the
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel
8 identified on the vessel entry permit. The commission may establish by regulation
9 minimum requirements for the nature and degree of ownership interest that the
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous
12 transfer of a transferable vessel entry permit to an eligible transferee and the
13 substitution of another vessel for the vessel identified on the permit under
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
18 regulations providing for the permanent or temporary substitution, after the initial
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
20 vessel entry permit. The commission may specify by regulation the nature and degree
21 of legal ownership interest that a permit holder must have in the vessel that is
22 permanently or temporarily substituted for the vessel identified on the permit. Upon
23 the approval of a permanent substitution of a vessel, the commission shall issue a new
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject
26 to all terms and conditions attached to the vessel entry permit at the time that the
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
4 by the commission for good cause. If an administrative closure of a fishery occurs for
5 an entire season, the commission may not count the season toward the two-year
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry
9 permits. Annual fees established under this subsection may not exceed \$2,500 and
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel
12 interim-use permit or a vessel entry permit for a fishery in which there was an
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for
15 processing applications for vessel interim-use permits and vessel entry permits, for
16 transfer of vessel entry permits, and for permanent and temporary substitution of
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate
19 of interest established in AS 45.45.010(a) on fees established under the section that are
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate
24 vessel permit has been issued for the vessel and is posted in a prominent location on
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is
29 consistent with regulations of the commission regarding concentration of ownership of
30 vessel permits in the fishery; and

31 (2) either

1 (A) the person or entity qualified for each vessel entry permit at
2 the time of the initial issuance of vessel entry permits for the fishery; or

3 (B) the vessel entry permits are issued for a vessel for which
4 the person or entity already holds another vessel entry permit for that fishery.

5 (c) The operator of a vessel for which a vessel interim-use permit or vessel
6 entry permit has been issued shall comply with the terms of the vessel permit while the
7 vessel is operated in the fishery for which the permit is issued.

8 (d) A vessel interim-use permit and a vessel entry permit constitute a use
9 privilege that may be modified or revoked by order of the commission or by law
10 without compensation.

11 (e) A vessel 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 foreclosure,
14 or on any condition requiring a subsequent transfer; or

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

17 (f) Unless the person who holds a vessel entry permit has expressed a contrary
18 intent in a will that is probated, the commission shall, upon the death of the person,
19 transfer the vessel entry permit by right of survivorship directly to the person's
20 surviving spouse or, if no spouse survives, to another person designated by the vessel
21 permit holder on a form provided by the commission. If no spouse survives and if the
22 person designated on the form, if any, does not survive, the permit passes as part of the
23 vessel permit holder's estate. A designation under this subsection must be
24 acknowledged before a person authorized to administer an oath under AS 09.63.010 or
25 must be witnessed by two persons who are qualified under AS 13.12.505 to witness
26 the will of the vessel permit holder. A vessel entry permit is exempt from the claims of
27 creditors of the estate.

28 (g) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
29 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
30 16.05.520.

31 (h) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of

1 Fisheries or the Department of Fish and Game.

2 (i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
3 release to the owner of a vessel information on the vessel's history of harvests in a
4 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
5 under AS 16.43.450 - 16.43.520.

6 * Sec. 3. AS 16.05.735 is amended to read:

7 Sec. 16.05.735. Management of offshore fisheries. The state may assume
8 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
9 the state in the absence of a federal fishery management plan for the fishery
10 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
11 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
12 FISHERIES] in the United States exclusive economic zone.

13 * Sec. 4. AS 16.43.010(a) is amended to read:

14 (a) It is the purpose of this chapter to promote the conservation and the
15 sustained yield management of Alaska's fishery resource and the economic health and
16 stability of commercial fishing in Alaska by regulating and controlling entry of
17 participants and vessels into the commercial fisheries in the public interest and
18 without unjust discrimination.

19 * Sec. 5. 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
22 in the state;
23 (2) establish priorities for the application of the provisions of this
24 chapter to the various commercial fisheries of the state;
25 (3) establish administrative areas suitable for regulating and
26 controlling entry into the commercial fisheries;
27 (4) establish, for all types of gear, the maximum number of entry
28 permits for each administrative area;
29 (5) designate, when necessary to accomplish the purposes of this
30 chapter, particular species for which separate interim-use permits or entry permits will
31 be issued;

- 1 (6) establish qualifications for the issuance of entry permits;
- 2 (7) issue entry permits to qualified applicants;
- 3 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 4 and 16.43.225;
- 5 (9) establish, for all types of gear, the optimum number of entry
- 6 permits for each administrative area;
- 7 (10) administer the buy-back program provided for in AS 16.43.310
- 8 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 9 number of entry permits;
- 10 (11) provide for the transfer and reissuance of entry permits to
- 11 qualified transferees;
- 12 (12) provide for the transfer and reissuance of entry permits for
- 13 alternative types of legal gear, in a manner consistent with the purposes of this
- 14 chapter;
- 15 (13) establish and administer the collection of the annual fees provided
- 16 for in AS 16.43.160;
- 17 (14) administer the issuance of commercial fishing vessel licenses
- 18 under AS 16.05.490;
- 19 (15) issue educational entry permits to applicants who qualify under
- 20 the provisions of AS 16.43.340 - 16.43.390;
- 21 (16) establish reasonable user fees for services;
- 22 (17) issue landing permits under AS 16.05.675 and regulations adopted
- 23 under that section;
- 24 (18) establish and collect annual fees for the issuance of landing
- 25 permits that reasonably reflect the costs incurred in the administration and
- 26 enforcement of provisions of law related to landing permits; [AND]
- 27 (19) establish a moratorium on entry into commercial fisheries as
- 28 provided in AS 16.43.225; and
- 29 (20) administer, when necessary to accomplish the purposes of this
- 30 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

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

1 (b) When the commission finds that a fishery, not designated as a distressed
2 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
3 reached levels of participation that require the limitation of entry under AS 16.43.140
4 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
5 establish the maximum number of entry permits for that fishery.

6 * Sec. 7. AS 16.43.240(c) is amended to read:

7 (c) When the commission finds that a fishery subject to a moratorium under
8 AS 16.43.225 has reached levels of participation that require the limitation of entry
9 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
10 commission shall establish the maximum number of entry permits for that fishery.

11 * Sec. 8. AS 16.43.960(a) is amended to read:

12 (a) The commission may revoke, suspend, or transfer all entry or interim-use
13 permits, vessel entry permits, or vessel interim-use permits held by a person or
14 entity who knowingly provides or assists in providing false information, or fails to
15 correct false information provided to the commission for the purpose of obtaining a
16 benefit for self or another, including the issuance, renewal, duplication, or transfer of
17 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
18 interim-use permit. The commission may suspend, as appropriate, that person's or
19 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
20 vessel interim-use permit for a period not to exceed three years, and may impose an
21 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION
22 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
23 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
24 knowingly provide or assist in providing false information, or fail to correct false
25 information provided, to the commission for the purpose of obtaining a benefit.

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

27 (a) A person who violates a provision of this chapter or a regulation adopted
28 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
29 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
30 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
31 first conviction, and a fine of not more than \$10,000 for a second or third conviction.

1 Upon a first or second conviction under this subsection, the court may in its discretion
2 also order the commission to suspend the commercial fishing privileges of the person
3 or entity for a period of not more than three years and to revoke one or more or all
4 commercial fishing permits held by the person or entity. Upon a third or subsequent
5 conviction under this subsection, the person or entity is also subject to a loss of
6 commercial fishing privileges as provided under (i) of this section. This subsection
7 does not apply to violations of AS 16.43.140(a).

8 * Sec. 10. AS 16.43.970(b) is amended to read:

9 (b) A person or entity who knowingly makes a false statement to the
10 commission for the purpose of obtaining a benefit, including the issuance, renewal,
11 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
12 interim-use permit, or vessel entry permit, or a person who assists another by
13 knowingly making a false statement to the commission for the purpose of obtaining a
14 benefit for another, is guilty of the crime of unsworn falsification as set out in
15 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
16 commercial fishing privileges and revocation of commercial fishing permits under (i)
17 of this section.

18 * Sec. 11. AS 16.43.970(d) is amended to read:

19 (d) If a permit holder is charged by the state with violating a provision of this
20 chapter or a regulation adopted under this chapter, the holder may not transfer [,
21 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
22 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
23 final adjudication or dismissal of the charges.

24 * Sec. 12. AS 16.43.970(e) is amended to read:

25 (e) Notwithstanding any other provision of this section, an interim-use or entry
26 permit or transferable vessel entry permit may not be transferred while under
27 suspension, without the consent of the commission.

28 * Sec. 13. AS 16.43.970(f) is amended to read:

29 (f) A commercial fishing entry permit revoked under this section that is
30 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
31 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

1 * Sec. 14. AS 16.43.970(i) is amended to read:

2 (i) Upon the conviction of a person or entity for an offense described under
3 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
4 conviction. The notice provided by the court shall be accompanied by an order
5 suspending commercial fishing privileges and revoking commercial fishing permits
6 under (a) of this section, as appropriate. The commission shall, upon receipt of

7 (1) an order from the court under (a) of this section, suspend the
8 commercial fishing privileges of a person or entity for the period set by the court and
9 revoke commercial fishing permits held by the person or entity as directed by the
10 court;

11 (2) a notice from the court that a person or entity has been convicted
12 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
13 privileges of the person or entity for a period of three years from the date of
14 conviction and revoke all commercial fishing permits held by the person or entity;

15 (3) a notice from the court that a person or entity has been convicted
16 of a violation described under (b) of this section, suspend all commercial fishing
17 privileges of the person or entity for a period of three years from the date of
18 conviction and revoke all commercial fishing permits held by the person or entity;

19 (4) a notice from the court that a person has been convicted of a
20 violation described under (g)(1) of this section, suspend all commercial fishing
21 privileges of the person for a period of one year from the date of conviction;

22 (5) a notice from the court that a person has been convicted of a
23 violation described under (g)(2) of this section, suspend all commercial fishing
24 privileges of the person for a period of two years from the date of conviction;

25 (6) a notice from the court that a person has been convicted of a
26 violation described under (g)(3) of this section, suspend all commercial fishing
27 privileges of the person for a period of five years from the date of conviction.

28 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

29 (1) "commercial fishing permit" means an entry permit, [OR] an
30 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
31 under this chapter;

1 * Sec. 16. AS 16.43.980(a) is amended to read:

2 (a) The commission shall prepare an annual report and notify the legislature
3 that it is available. The report must [SHALL] include but not be limited to the
4 following:

5 (1) a progress report on the reduction of entry permits to optimum
6 levels;

7 (2) recommendations for additional legislation relating to the
8 regulation of entry of participants and vessels into Alaska commercial fisheries.

9 * Sec. 17. AS 16.43.990(5) is amended to read:

10 (5) "person" means a natural person; "person" [AND] does not
11 include a corporation, company, partnership, firm, association, organization, joint
12 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
13 person;

14 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

15 (10) "entity" means a corporation, company, partnership, firm,
16 association, organization, joint venture, trust, society, or other legal entity other than a
17 natural person.

18 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).

Proposed Second House Resources CS for HB 206 (Work Draft 22-LS0426\B)

The primary focus of the changes being proposed to the version of HB206 adopted by the House Resources committee in 2001 is removal of the so-called "second-generation" provision. The goal of that provision was to provide a mechanism whereby fisheries limited under the vessel-based limited entry system authorized by the bill, would, over time, evolve increasingly toward being 'owner-operator' in character. Alaska's current limited entry program is based on the owner-operator model, (which is characteristic of Alaska's salmon fisheries and most other state-managed fisheries), and is designed to perpetuate that character in fisheries after limitation. The second-generation provision was primarily included in the original HB206 because that bill provided generic authority to the Commercial Fisheries Entry Commission (CFEC) to use this new vessel-based limited entry system in any fisheries in the future that met criteria specified in the bill.

After considerable deliberation, the House Resources Committee amended HB206 just before moving it from committee to narrow the scope of the bill to authorize the use of the vessel-based program ONLY for limitation of the scallop and Korean Hair Crab fisheries. The committee substitute version of the bill removed authority for the commission to use the vessel-based program to limit any other fisheries. The scallop and hair crab fisheries are not currently owner-operator in nature. Applying the "second-generation" criteria to permit transfers in these fisheries would be cumbersome, at best. Vessel owners in these fisheries have raised concern about impacts of the provision and asked that it be removed, now that the bill pertains only to these 2 fisheries.

The proposed Second Resources CS (Work Draft 22-LS0426\B) is substantially the same as the first Resources CS as the program authorized is virtually the same and the draft bill still authorizes the use of the vessel-based limitation program only for the scallop and hair crab fisheries. The primary focus of the revisions proposed in the draft is removal of the second-generation provision. Thus, if one or both of these two fisheries were to be limited under this program, a holder of a vessel entry permit would not be restricted to transferring the permit only to an individual human being, but would be able to transfer the permit to a partnership, company, or other "entity." Over time, ownership patterns in the fishery would likely stay very similar to what they are today.

Most other revisions proposed in the draft second CS are simply changes needed to make other provisions of the bill consistent with the removal of the second-generation provision or to provide clarity. The comparison on the following two pages explains each change proposed in the work draft.

Work Draft 22-LS0426\B makes the following changes to CSHB206(RES):

P.4, line 30, after “vessel,” insert: “or vessels”

Purpose of change: Acknowledges that participation using more than one vessel may be counted toward eligibility for a vessel permit.

P.4, line 31, change “is” or “are” and insert after “lost,”: “or are retired from the fishery by the vessel owner,”

Purpose: Allows flexibility in situations where a vessel leaves the fishery due to a decision of the owner to retire the vessel from the fishery, rather than to the sinking of the vessel.

P.6, line 5, insert “and establishing the terms and conditions under which vessel entry permits may be transferred. The commission may require that”

Purpose: Makes clear that commission has authority to set requirements such as having permit transfer paperwork come through the commission, just as all transfers of limited entry permits must do now, and to require information about ownership of the entity to which a permit is being transferred. This is necessary to ensure compliance with provisions such as those aimed at preventing excessive concentration of ownership.

Adding “commission may require that,” would allow flexibility for vessel permit holders to lease, rather than own a vessel in the future. This may help make it possible for those who can’t afford to purchase both a permit and a vessel to enter the fishery.

P. 6, after line 10 – delete the ‘second-generation’ language that in HB 206 and in CSHB206(RES) (p.6, lines 9-28 of CS) prohibited the transfer of vessel permits to ‘entities’ (anything other than one human being).

Purpose: See explanation on previous page.

P. 6, delete provision that commission may prohibit involuntary transfers (p.7, line 2-3 of Res CS)

Purpose: Issue is covered more thoroughly in new provisions on p. 8 of draft bill.

P. 6, lines 20-22: sentences combined and reworded (for clarity), and added “may” in line 20.

Purpose of adding “may”: Provides flexibility to allow permit holders to use a leased vessel, partner with someone else who owns the vessel, or participate in some other arrangement besides owning both the permit and part or all of the vessel to be used.

Deleted lines 24-25 of p.7 of Res CS.

Purpose: To be consistent with removal of second generation provision.

Deleted p.8, lines 18-21 of Res CS.

Purpose: To be consistent with removal of second-generation language as future permit holders can be entities, rather than persons, so can't require to that vessel owner be on board.

P. 8, inserted lines 11-27

Purpose: Added language that mirrors provisions in current limited entry statute to make it clear that vessel entry permits, like limited entry permits, constitute a "fishing privilege," not property, and to provide right of survivorship and other provisions for transfer of a permit upon the death of the permit holder in circumstances where holder of the vessel entry permit is a natural person, rather than an entity.

P. 10, lines 29-30, insert: "when necessary to accomplish the purposes of this chapter,"

Purpose: Recognizes that CFEC may or may not opt to utilize the vessel entry permit system authorized by this bill. If CFEC opts to not limit the two subject fisheries at all, or opts not to use this alternate program for either one, there would be no need to require the commission to "administer a vessel permit system."

P. 14, line 18, replace staggered effective dates with one immediate effective date for whole bill.

Purpose: The more elaborate effective date clauses were included in original bill because it provided "generic authority" and because, at the time of introduction, the moratoria in the scallop and hair crab fisheries were to expire soon. With the narrowed scope of bill, and the extensions made by the legislature to the two moratoria, the bill now needs only a simple immediate effective date for all sections of the bill.

22-LS0426B
Utermohle
1/30/02

2d CS FOR HOUSE BILL NO. 206(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to
3 management of offshore fisheries, and to the definition of 'person' for purposes of the
4 commercial fisheries entry program; and providing for an effective date."

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

6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent participation requirements, minimum requirements for the nature and degree of
29 ownership interest that a permit holder must have in a vessel in order to receive a
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature
6 of the fishery, and the need to ensure the manageability of the fishery and conservation
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is subject to a moratorium on entry of new vessels under
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee and establishing the terms and conditions under
6 which vessel entry permits may be transferred. The commission may require that the
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel
8 identified on the vessel entry permit. The commission may establish by regulation
9 minimum requirements for the nature and degree of ownership interest that the
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous
12 transfer of a transferable vessel entry permit to an eligible transferee and the
13 substitution of another vessel for the vessel identified on the permit under
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
18 regulations providing for the permanent or temporary substitution, after the initial
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
20 vessel entry permit. The commission may specify by regulation the nature and degree
21 of legal ownership interest that a permit holder must have in the vessel that is
22 permanently or temporarily substituted for the vessel identified on the permit. Upon
23 the approval of a permanent substitution of a vessel, the commission shall issue a new
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject
26 to all terms and conditions attached to the vessel entry permit at the time that the
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
4 by the commission for good cause. If an administrative closure of a fishery occurs for
5 an entire season, the commission may not count the season toward the two-year
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry
9 permits. Annual fees established under this subsection may not exceed \$2,500 and
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel
12 interim-use permit or a vessel entry permit for a fishery in which there was an
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for
15 processing applications for vessel interim-use permits and vessel entry permits, for
16 transfer of vessel entry permits, and for permanent and temporary substitution of
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate
19 of interest established in AS 45.45.010(a) on fees established under the section that are
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate
24 vessel permit has been issued for the vessel and is posted in a prominent location on
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is
29 consistent with regulations of the commission regarding concentration of ownership of
30 vessel permits in the fishery; and

31 (2) either

1 (A) the person or entity qualified for each vessel entry permit at
2 the time of the initial issuance of vessel entry permits for the fishery; or

3 (B) the vessel entry permits are issued for a vessel for which
4 the person or entity already holds another vessel entry permit for that fishery.

5 (c) The operator of a vessel for which a vessel interim-use permit or vessel
6 entry permit has been issued shall comply with the terms of the vessel permit while the
7 vessel is operated in the fishery for which the permit is issued.

8 (d) A vessel interim-use permit and a vessel entry permit constitute a use
9 privilege that may be modified or revoked by order of the commission or by law
10 without compensation.

11 (e) A vessel 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 foreclosure,
14 or on any condition requiring a subsequent transfer; or

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

17 (f) Unless the person who holds a vessel entry permit has expressed a contrary
18 intent in a will that is probated, the commission shall, upon the death of the person,
19 transfer the vessel entry permit by right of survivorship directly to the person's
20 surviving spouse or, if no spouse survives, to another person designated by the vessel
21 permit holder on a form provided by the commission. If no spouse survives and if the
22 person designated on the form, if any, does not survive, the permit passes as part of the
23 vessel permit holder's estate. A designation under this subsection must be
24 acknowledged before a person authorized to administer an oath under AS 09.63.010 or
25 must be witnessed by two persons who are qualified under AS 15.12.505 to witness
26 the will of the vessel permit holder. A vessel entry permit is exempt from the claims of
27 creditors of the estate.

28 (g) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
29 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
30 16.05.520.

31 (h) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of

1 Fisheries or the Department of Fish and Game.

2 (i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
3 release to the owner of a vessel information on the vessel's history of harvests in a
4 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
5 under AS 16.43.450 - 16.43.520.

6 * Sec. 3. AS 16.05.735 is amended to read:

7 Sec. 16.05.735. Management of offshore fisheries. The state may assume
8 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
9 the state in the absence of a federal fishery management plan for the fishery
10 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
11 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
12 FISHERIES] in the United States exclusive economic zone.

13 * Sec. 4. AS 16.43.010(a) is amended to read:

14 (a) It is the purpose of this chapter to promote the conservation and the
15 sustained yield management of Alaska's fishery resource and the economic health and
16 stability of commercial fishing in Alaska by regulating and controlling entry of
17 participants and vessels into the commercial fisheries in the public interest and
18 without unjust discrimination.

19 * Sec. 5. 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
22 in the state;
23 (2) establish priorities for the application of the provisions of this
24 chapter to the various commercial fisheries of the state;
25 (3) establish administrative areas suitable for regulating and
26 controlling entry into the commercial fisheries;
27 (4) establish, for all types of gear, the maximum number of entry
28 permits for each administrative area;
29 (5) designate, when necessary to accomplish the purposes of this
30 chapter, particular species for which separate interim-use permits or entry permits will
31 be issued;

- 1 (6) establish qualifications for the issuance of entry permits;
- 2 (7) issue entry permits to qualified applicants;
- 3 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 4 and 16.43.225;
- 5 (9) establish, for all types of gear, the optimum number of entry
- 6 permits for each administrative area;
- 7 (10) administer the buy-back program provided for in AS 16.43.310
- 8 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 9 number of entry permits;
- 10 (11) provide for the transfer and reissuance of entry permits to
- 11 qualified transferees;
- 12 (12) provide for the transfer and reissuance of entry permits for
- 13 alternative types of legal gear, in a manner consistent with the purposes of this
- 14 chapter;
- 15 (13) establish and administer the collection of the annual fees provided
- 16 for in AS 16.43.160;
- 17 (14) administer the issuance of commercial fishing vessel licenses
- 18 under AS 16.05.490;
- 19 (15) issue educational entry permits to applicants who qualify under
- 20 the provisions of AS 16.43.340 - 16.43.390;
- 21 (16) establish reasonable user fees for services;
- 22 (17) issue landing permits under AS 16.05.675 and regulations adopted
- 23 under that section;
- 24 (18) establish and collect annual fees for the issuance of landing
- 25 permits that reasonably reflect the costs incurred in the administration and
- 26 enforcement of provisions of law related to landing permits; [AND]
- 27 (19) establish a moratorium on entry into commercial fisheries as
- 28 provided in AS 16.43.225; and
- 29 (20) administer, when necessary to accomplish the purposes of this
- 30 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

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

1 (b) When the commission finds that a fishery, not designated as a distressed
2 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
3 reached levels of participation that require the limitation of entry under AS 16.43.140
4 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
5 establish the maximum number of entry permits for that fishery.

6 * Sec. 7. AS 16.43.240(c) is amended to read:

7 (c) When the commission finds that a fishery subject to a moratorium under
8 AS 16.43.225 has reached levels of participation that require the limitation of entry
9 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
10 commission shall establish the maximum number of entry permits for that fishery.

11 * Sec. 8. AS 16.43.960(a) is amended to read:

12 (a) The commission may revoke, suspend, or transfer all entry or interim-use
13 permits, vessel entry permits, or vessel interim-use permits held by a person or
14 entity who knowingly provides or assists in providing false information, or fails to
15 correct false information provided to the commission for the purpose of obtaining a
16 benefit for self or another, including the issuance, renewal, duplication, or transfer of
17 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
18 interim-use permit. The commission may suspend, as appropriate, that person's or
19 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
20 vessel interim-use permit for a period not to exceed three years, and may impose an
21 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION
22 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
23 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
24 knowingly provide or assist in providing false information, or fail to correct false
25 information provided, to the commission for the purpose of obtaining a benefit.

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

27 (a) A person who violates a provision of this chapter or a regulation adopted
28 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
29 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
30 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
31 first conviction, and a fine of not more than \$10,000 for a second or third conviction.

1 Upon a first or second conviction under this subsection, the court may in its discretion
2 also order the commission to suspend the commercial fishing privileges of the person
3 or entity for a period of not more than three years and to revoke one or more or all
4 commercial fishing permits held by the person or entity. Upon a third or subsequent
5 conviction under this subsection, the person or entity is also subject to a loss of
6 commercial fishing privileges as provided under (i) of this section. This subsection
7 does not apply to violations of AS 16.43.140(a).

8 * Sec. 10. AS 16.43.970(b) is amended to read:

9 (b) A person or entity who knowingly makes a false statement to the
10 commission for the purpose of obtaining a benefit, including the issuance, renewal,
11 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
12 interim-use permit, or vessel entry permit, or a person who assists another by
13 knowingly making a false statement to the commission for the purpose of obtaining a
14 benefit for another, is guilty of the crime of unsworn falsification as set out in
15 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
16 commercial fishing privileges and revocation of commercial fishing permits under (i)
17 of this section.

18 * Sec. 11. AS 16.43.970(d) is amended to read:

19 (d) If a permit holder is charged by the state with violating a provision of this
20 chapter or a regulation adopted under this chapter, the holder may not transfer [,
21 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
22 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
23 final adjudication or dismissal of the charges.

24 * Sec. 12. AS 16.43.970(e) is amended to read:

25 (e) Notwithstanding any other provision of this section, an interim-use or entry
26 permit or transferable vessel entry permit may not be transferred while under
27 suspension, without the consent of the commission.

28 * Sec. 13. AS 16.43.970(f) is amended to read:

29 (f) A commercial fishing entry permit revoked under this section that is
30 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
31 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

1 * Sec. 14. AS 16.43.970(i) is amended to read:

2 (i) Upon the conviction of a person or entity for an offense described under
3 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
4 conviction. The notice provided by the court shall be accompanied by an order
5 suspending commercial fishing privileges and revoking commercial fishing permits
6 under (a) of this section, as appropriate. The commission shall, upon receipt of

7 (1) an order from the court under (a) of this section, suspend the
8 commercial fishing privileges of a person or entity for the period set by the court and
9 revoke commercial fishing permits held by the person or entity as directed by the
10 court;

11 (2) a notice from the court that a person or entity has been convicted
12 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
13 privileges of the person or entity for a period of three years from the date of
14 conviction and revoke all commercial fishing permits held by the person or entity;

15 (3) a notice from the court that a person or entity has been convicted
16 of a violation described under (b) of this section, suspend all commercial fishing
17 privileges of the person or entity for a period of three years from the date of
18 conviction and revoke all commercial fishing permits held by the person or entity;

19 (4) a notice from the court that a person has been convicted of a
20 violation described under (g)(1) of this section, suspend all commercial fishing
21 privileges of the person for a period of one year from the date of conviction;

22 (5) a notice from the court that a person has been convicted of a
23 violation described under (g)(2) of this section, suspend all commercial fishing
24 privileges of the person for a period of two years from the date of conviction;

25 (6) a notice from the court that a person has been convicted of a
26 violation described under (g)(3) of this section, suspend all commercial fishing
27 privileges of the person for a period of five years from the date of conviction.

28 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

29 (1) "commercial fishing permit" means an entry permit, [OR] an
30 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
31 under this chapter;

1 * Sec. 16. AS 16.43.980(a) is amended to read:

2 (a) The commission shall prepare an annual report and notify the legislature
3 that it is available. The report must [SHALL] include but not be limited to the
4 following:

5 (1) a progress report on the reduction of entry permits to optimum
6 levels;

7 (2) recommendations for additional legislation relating to the
8 regulation of entry of participants and vessels into Alaska commercial fisheries.

9 * Sec. 17. AS 16.43.990(5) is amended to read:

10 (5) "person" means a natural person: "person" [AND] does not
11 include a corporation, company, partnership, firm, association, organization, joint
12 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
13 person;

14 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

15 (10) "entity" means a corporation, company, partnership, firm,
16 association, organization, joint venture, trust, society, or other legal entity other than a
17 natural person.

18 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).

Bill History/Action Display



BILL: HB 206 SHORT TITLE: VESSEL LIMITED ENTRY FOR COMM. FISHERIES
 BILL VERSION:
 SPONSOR(S): RESOURCES
 CURRENT STATUS: (H) RES STATUS DATE: 01/23/02
 HEARING: (H) RES Feb 08 1:00 PM CAPITOL 124

TITLE: "An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

Jrn-Date	Jrn-Page	Action
03/22/01	<u>0691</u>	(H) READ THE FIRST TIME - REFERRALS
03/22/01	<u>0691</u>	(H) FSH, RES
04/03/01	<u>0826</u>	(H) FSH RPT 2DP 4NR
04/03/01	<u>0827</u>	(H) DP: SCALZI, WILSON; NR: DYSON,
04/03/01	<u>0827</u>	(H) COGHILL, KERTTULA, STEVENS
04/03/01	<u>0827</u>	(H) FN1: ZERO(DFG)
04/11/01	<u>0952</u>	(H) RES RPT CS(RES) NT 7DP 1NR
04/11/01	<u>0953</u>	(H) DP: FATE, MCGUIRE, GREEN, CHENAULT,
04/11/01	<u>0953</u>	(H) KERTTULA, STEVENS, SCALZI; NR: MASEK
04/11/01	<u>0953</u>	(H) FN1: ZERO(DFG)
04/11/01	<u>0953</u>	(H) REFERRED TO RULES
01/23/02	<u>2053</u>	(H) RETURNED TO RES COMMITTEE

Similar Subject Match or Exact Subject Match

FISH & GAME (FISH)

LIMITED ENTRY

PERMITS

VESSELS

Bill Root:



TO REPORT PROBLEMS WITH BASIS INQUIRY

LIVE KTOO STREAMS



Return to Basis Main Menu (22 Legislature)

Return to Legislature Home Page

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: 2d CSHB206(RES)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
Title Vessel Limited Entry for Commercial Fisheries BRU Comm Fish Entry Commission
Component Comm Fish Entry Commission
Sponsor Rep. Scalzi
Requester House Resources Component No. 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Work Draft 22-LS04261B

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950
Division Commercial Fisheries Entry Commission Date/Time 2/6/02 11:55 AM
Approved by: Mary McDowell, Commissioner Date 02/06/2002
Agency Commercial Fisheries Entry Commission

HOUSE COMMITTEE REPORT

(9)

Date RETURNED to Committee: January 23, 2002

FURTHER REFERRALS:

Date of Committee Action: 2/8/02

The RESOURCES Committee considered:

HB 206

HOUSE BILL NO. 206

VESSEL LIMITED ENTRY FOR COMM. FISHERIES

"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

Recommends it be replaced with 2d CS HB 206 (RES) Same Title New Title
 For Senate Bills with new title: Technical Title New Title: HCR _____

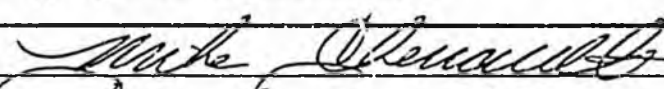
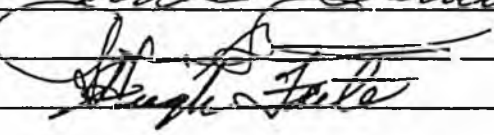
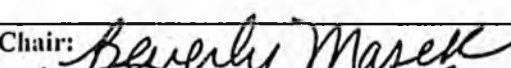
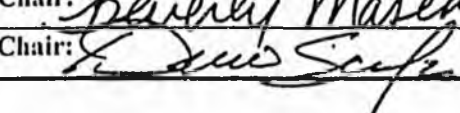
- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of
Abbrev.
for
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LAA
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>DFG</u>				<input checked="" type="checkbox"/>

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Chénault	<input checked="" type="checkbox"/>			
	Stephen Fata	<input checked="" type="checkbox"/>			
Chair: 	Masek			<input checked="" type="checkbox"/>	
Chair: 	SCALZI	<input checked="" type="checkbox"/>			

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 206
(H) Publish Date: 4/3/01

Revision Date/Time (Note if correction):
Title: Vessel Limited Entry for Commercial Fisheries

Dept. Affected: Fish and Game
BRU: Comm Fish (Limited) Entry Comm
Component: Comm Fish (Limited) Entry Comm

Sponsor: House Resources
Requester: House Fisheries

Component Number: 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Roger Kolden
Division: Commercial Fisheries Entry Commission
Approved by: Mary McDowell
Agency: Commercial Fisheries Entry Commission

Phone 790-6950
Date/Time 3/23/01 12:51 PM
Date 03/23/2001

For distribution information, call the Governor's Legislative Office

2.6.02

Sponsor and/or Committee Name			Date
House Resources			2.8.02
Start/End Time	Chairing site	Juneau Room	Testimony
1-3 pm	JNU	124	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Invitational <input type="checkbox"/>
Contact Person and	Phone Number	Other sites may add?	Testimony Limit
Pat Hartley	-6890 -4708	yes	
Subject of meeting and/or Bills on agenda			

HB - 206

may testify, but wants to be available to answer questions, if needed.

4-9-02
ADDITION

Sites - LIOs	Sites - Offnets	Phone #
Anchorage	Kennie Hertzog	907.229.4986
Barrow	David Heel skand	
Bethel	Eugene BIKSICK	907.274.2248
Cordova		
Delta Junction		
Dillingham		
Fairbanks	✓ all three calling 888 FF	
Glennallen	from their meetings @	
Homer	Anchorage Helton =	
Juneau		
Kenai	call if any questions	
Ketchikan		
Kodiak		
Kotzebue		
Matsu		
Nome		
Petersburg		
Seward		
Sitka		
Tok		
Valdez		
Wrangell		

Notes

no sites yet but Ananathan Wintner will call on off-net from phone # 206.369.0514

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 206
(H) Publish Date: 4/3/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: Vessel Limited Entry for Commercial Fisheries BRU: Comm Fish (Limited) Entry Comm
Sponsor: House Resources Component: Comm Fish (Limited) Entry Comm
Requester: House Fisheries Component Number: 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Roger Kolden Phone 790-6950
Division: Commercial Fisheries Entry Commission Date/Time 3/23/01 12:51 PM
Approved by: Mary McDowell Date 03/23/2001
Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: 2d CSHB206(RES)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
Title Vessel Limited Entry for Commercial Fisheries BRU Comm Fish Entry Commission
Component Comm Fish Entry Commission
Sponsor Rep. Scalzi
Requester House Resources Component No. 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Work Draft 22-LS0426\B

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950
Division Commercial Fisheries Entry Commission Date/Time 2/6/02 11:55 AM
Approved by: Mary McDowell, Commissioner Date 02/06/2002
Agency Commercial Fisheries Entry Commission

Proposed Second House Resources CS for HB 206 (Work Draft 22-LS0426\B)

The primary focus of the changes being proposed to the version of HB206 adopted by the House Resources committee in 2001 is removal of the so-called "second-generation" provision. The goal of that provision was to provide a mechanism whereby fisheries limited under the vessel-based limited entry system authorized by the bill, would, over time, evolve increasingly toward being 'owner-operator' in character. Alaska's current limited entry program is based on the owner-operator model, (which is characteristic of Alaska's salmon fisheries and most other state-managed fisheries), and is designed to perpetuate that character in fisheries after limitation. The second-generation provision was primarily included in the original HB206 because that bill provided generic authority to the Commercial Fisheries Entry Commission (CFEC) to use this new vessel-based limited entry system in any fisheries in the future that met criteria specified in the bill.

After considerable deliberation, the House Resources Committee amended HB206 just before moving it from committee to narrow the scope of the bill to authorize the use of the vessel-based program ONLY for limitation of the scallop and Korean Hair Crab fisheries. The committee substitute version of the bill removed authority for the commission to use the vessel-based program to limit any other fisheries. The scallop and hair crab fisheries are not currently owner-operator in nature. Applying the "second-generation" criteria to permit transfers in these fisheries would be cumbersome, at best. Vessel owners in these fisheries have raised concern about impacts of the provision and asked that it be removed, now that the bill pertains only to these 2 fisheries.

The proposed Second Resources CS (Work Draft 22-LS0426\B) is substantially the same as the first Resources CS as the program authorized is virtually the same and the draft bill still authorizes the use of the vessel-based limitation program only for the scallop and hair crab fisheries. The primary focus of the revisions proposed in the draft is removal of the second-generation provision. Thus, if one or both of these two fisheries were to be limited under this program, a holder of a vessel entry permit would not be restricted to transferring the permit only to an individual human being, but would be able to transfer the permit to a partnership, company, or other "entity." Over time, ownership patterns in the fishery would likely stay very similar to what they are today.

Most other revisions proposed in the draft second CS are simply changes needed to make other provisions of the bill consistent with the removal of the second-generation provision or to provide clarity. The comparison on the following two pages explains each change proposed in the work draft.

Work Draft 22-LS0426\B makes the following changes to CSHB206(RES):

P.4, line 30, after “vessel,” insert: “or vessels”

Purpose of change: Acknowledges that participation using more than one vessel may be counted toward eligibility for a vessel permit.

P.4, line 31, change “is” or “are” and insert after “lost,”: “or are retired from the fishery by the vessel owner,”

Purpose: Allows flexibility in situations where a vessel leaves the fishery due to a decision of the owner to retire the vessel from the fishery, rather than to the sinking of the vessel.

P.6, line 5, insert “and establishing the terms and conditions under which vessel entry permits may be transferred. The commission may require that”

Purpose: Makes clear that commission has authority to set requirements such as having permit transfer paperwork come through the commission, just as all transfers of limited entry permits must do now, and to require information about ownership of the entity to which a permit is being transferred. This is necessary to ensure compliance with provisions such as those aimed at preventing excessive concentration of ownership.

Adding “commission may require that,” would allow flexibility for vessel permit holders to lease, rather than own a vessel in the future. This may help make it possible for those who can’t afford to purchase both a permit and a vessel to enter the fishery.

P. 6, after line 10 – delete the ‘second-generation’ language that in HB 206 and in CSHB206(RES) (p.6, lines 9-28 of CS) prohibited the transfer of vessel permits to ‘entities’ (anything other than one human being).

Purpose: See explanation on previous page.

P. 6, delete provision that commission may prohibit involuntary transfers (p.7, line 2-3 of Res CS)

Purpose: Issue is covered more thoroughly in new provisions on p. 8 of draft bill.

P. 6, lines 20-22: sentences combined and reworded (for clarity), and added “may” in line 20.

Purpose of adding “may”: Provides flexibility to allow permit holders to use a leased vessel, partner with someone else who owns the vessel, or participate in some other arrangement besides owning both the permit and part or all of the vessel to be used.

Deleted lines 24-25 of p.7 of Res CS.

Purpose: To be consistent with removal of second generation provision.

Deleted p.8, lines 18-21 of Res CS.

Purpose: To be consistent with removal of second-generation language as future permit holders can be entities, rather than persons, so can't require to that vessel owner be on board.

P. 8, inserted lines 11-27

Purpose: Added language that mirrors provisions in current limited entry statute to make it clear that vessel entry permits, like limited entry permits, constitute a "fishing privilege," not property, and to provide right of survivorship and other provisions for transfer of a permit upon the death of the permit holder in circumstances where holder of the vessel entry permit is a natural person, rather than an entity.

P. 10, lines 29-30, insert: "when necessary to accomplish the purposes of this chapter,"

Purpose: Recognizes that CFEC may or may not opt to utilize the vessel entry permit system authorized by this bill. If CFEC opts to not limit the two subject fisheries at all, or opts not to use this alternate program for either one, there would be no need to require the commission to "administer a vessel permit system."

P. 14, line 18, replace staggered effective dates with one immediate effective date for whole bill.

Purpose: The more elaborate effective date clauses were included in original bill because it provided "generic authority" and because, at the time of introduction, the moratoria in the scallop and hair crab fisheries were to expire soon. With the narrowed scope of bill, and the extensions made by the legislature to the two moratoria, the bill now needs only a simple immediate effective date for all sections of the bill.



Alaska State Legislature

1 OPPOSE

Please enter into the record my testimony to the House Resource Committee
committee name

committee on HB 206, dated 4/9/01
bill/subject

I am opposed to House Bill 206 - vessel limited entry. This would be a major policy shift for the state of Alaska. This has not had broad public scrutiny or debate. The Canadians are having a lot of social problems with vessel limited entry. If it is intended to be temporary then there are other ways, such as vessel moratorium extension. To deal with the issue while preserving state policy to have operator-based harvesting rights.

Signed: Oliver N Holm chicken@gci.net
Testifier

Representing (Optional)

PO Box 3865 Kodiak 99615

Address

907-486-6957

Phone No.

22-LS0426L
Utermohle
4/9/01

CS FOR HOUSE BILL NO. 206()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a vessel-based commercial fisheries limited entry system for the**
2 **Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to**
3 **management of offshore fisheries, and to the definition of 'person' for purposes of the**
4 **commercial fisheries entry program; and providing for an effective date."**

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

6 *** Section 1. The uncodified law of the State of Alaska is amended by adding a new section**
7 **to read:**

8 **FINDINGS. The legislature finds that**

9 **(1) the conventional commercial fisheries limited entry system, which limits**
10 **the entry of natural persons into a fishery, may not adequately protect the economic health**
11 **and stability of certain fisheries in this state;**

12 **(2) a system that limits the number of vessels that may engage in a fishery**
13 **may be necessary to regulate certain fisheries in order to promote the conservation and**
14 **sustained yield management of Alaska's fishery resource and the economic health and**

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;

20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent participation requirements, minimum requirements for the nature and degree of
29 ownership interest that a permit holder must have in a vessel in order to receive a
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature
6 of the fishery, and the need to ensure the manageability of the fishery and conservation
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is subject to a moratorium on entry of new vessels under
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel used to establish eligibility for
31 a vessel entry permit is lost before the initial issuance of a vessel entry permit for the

1 vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee. The transferee of a vessel entry permit must
6 have a legal ownership interest in the vessel identified on the vessel entry permit. The
7 commission may establish by regulation the minimum requirements for the nature and
8 degree of ownership interest that the transferee must have in the vessel.

9 (b) Except as provided under (c) of this section, a person or entity that
10 received a transferable vessel entry permit upon the initial issuance of vessel entry
11 permits for a fishery may not transfer the permit to another entity. For purposes of this
12 subsection, a transfer to an entity includes a change in the entity to which the permit
13 was issued. Except for a publicly held corporation, the addition of a new shareholder
14 or partner to the entity, other than a trustee appointed by a court to act on behalf of a
15 shareholder or partner who becomes incapacitated, constitutes a change in the entity.
16 A transfer of a vessel entry permit in violation of this subsection suspends the permit
17 by operation of law until the permit is transferred to a person or back to the original
18 entity and the transfer is approved by the commission.

19 (c) Notwithstanding (b) of this section, the commission may authorize a
20 transferable vessel entry permit for a fishery to be transferred by a person or entity to
21 an entity if

22 (1) the entity to which the permit is to be transferred received a vessel
23 entry permit for the fishery at the time of initial issuance of vessel entry permits for
24 the fishery;

25 (2) the vessel entry permit is to be issued for a vessel for which the
26 entity receiving the permit already holds a vessel entry permit for the fishery; and

27 (3) the transfer of the vessel entry permit is consistent with
28 AS 16.43.520(b).

29 (d) The commission may adopt regulations authorizing the simultaneous
30 transfer of a transferable vessel entry permit to an eligible transferee and the
31 substitution of another vessel for the vessel identified on the permit under

1 AS 16.43.490.

2 (e) The commission may prohibit the involuntary transfer of a vessel entry
3 permit.

4 (f) The commission shall adopt regulations relating to the expiration of
5 nontransferable vessel entry permits.

6 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
7 regulations providing for the permanent or temporary substitution, after the initial
8 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
9 vessel entry permit. A permit holder must have a legal ownership interest in the vessel
10 that is permanently substituted for the vessel identified on the permit. Upon the
11 approval of a permanent substitution of a vessel, the commission shall issue a new
12 vessel entry permit for the substituted vessel. The commission may require that the
13 permit holder have an ownership interest in a temporarily substituted vessel. The
14 commission may specify by regulation the nature and degree of ownership interest that
15 a permit holder must have in a substituted vessel.

16 (b) A substituted vessel and the operation of the substituted vessel are subject
17 to all terms and conditions attached to the vessel entry permit at the time that the
18 vessel permit is transferred from the original vessel to the substituted vessel.

19 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
20 or vessel entry permit is issued for one year and must be renewed annually.

21 (b) A vessel interim-use permit or vessel entry permit may not be renewed
22 until the fees for each preceding year during which the permit has not been renewed
23 are paid.

24 (c) A vessel entry permit issued to an entity may not be renewed if the permit
25 is suspended by operation of law under AS 16.43.480(b).

26 (d) Failure to renew a vessel entry permit for two consecutive years from the
27 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
28 by the commission for good cause. If an administrative closure of a fishery occurs for
29 an entire season, the commission may not count the season toward the two-year
30 period.

31 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees

1 for the issuance and annual renewal of vessel interim-use permits and vessel entry
2 permits. Annual fees established under this subsection may not exceed \$2,500 and
3 shall reasonably reflect the rate of economic return for the fishery.

4 (b) The commission shall waive the payment of the annual fees for a vessel
5 interim-use permit or a vessel entry permit for a fishery in which there was an
6 administrative closure for the entire season.

7 (c) Subject to AS 37.10.050(a), the commission may establish fees for
8 processing applications for vessel interim-use permits and vessel entry permits, for
9 transfer of vessel entry permits, and for permanent and temporary substitution of
10 vessels.

11 (d) The commission may charge interest at a rate not to exceed the legal rate
12 of interest established in AS 45.45.010(a) on fees established under the section that are
13 more than 60 days overdue.

14 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
15 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
16 a vessel interim-use permit or vessel entry permit is required unless the appropriate
17 vessel permit has been issued for the vessel and is posted in a prominent location on
18 the vessel. A vessel entry permit holder, other than an entity or a person who received
19 the permit at the time of initial issuance of vessel entry permits for the fishery, shall be
20 physically present on the vessel while the vessel is engaged in the fishery for which
21 the vessel entry permit was issued.

22 (b) A person or entity may not hold more than one vessel entry permit for a
23 fishery unless

24 (1) the number of vessel entry permits held by the person or entity is
25 consistent with regulations of the commission regarding concentration of ownership of
26 vessel permits in the fishery; and

27 (2) either

28 (A) the person or entity qualified for each vessel entry permit at
29 the time of the initial issuance of vessel entry permits for the fishery; or

30 (B) the vessel entry permits are issued for a vessel for which
31 the person or entity already holds another vessel entry permit for that fishery.

1 (c) The operator of a vessel for which a vessel interim-use permit or vessel
2 entry permit has been issued shall comply with the terms of the vessel permit while the
3 vessel is operated in the fishery for which the permit is issued.

4 (d) A vessel interim-use permit and a vessel entry permit constitute a use
5 privilege that may be modified or revoked by order of the commission or by law
6 without compensation.

7 (e) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
8 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
9 16.05.520.

10 (f) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of
11 Fisheries or the Department of Fish and Game.

12 (g) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
13 release to the owner of a vessel information on the vessel's history of harvests in a
14 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
15 under AS 16.43.450 - 16.43.520.

16 * Sec. 3. AS 16.05.735 is amended to read:

17 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume
18 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
19 the state in the absence of a federal fishery management plan for the fishery
20 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
21 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
22 FISHERIES] in the United States exclusive economic zone.

23 * Sec. 4. AS 16.43.010(a) is amended to read:

24 (a) It is the purpose of this chapter to promote the conservation and the
25 sustained yield management of Alaska's fishery resource and the economic health and
26 stability of commercial fishing in Alaska by regulating and controlling entry of
27 participants and vessels into the commercial fisheries in the public interest and
28 without unjust discrimination.

29 * Sec. 5. AS 16.43.100(a) is amended to read:

30 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
31 (1) regulate entry into the commercial fisheries for all fishery resources

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in the state;

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

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

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

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

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

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

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

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

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

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

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

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

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

(16) establish reasonable user fees for services;

1 (17) issue landing permits under AS 16.05.675 and regulations adopted
2 under that section;

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

6 (19) establish a moratorium on entry into commercial fisheries as
7 provided in AS 16.43.225; and

8 (20) administer the vessel permit system authorized for the Bering
9 Sea Korean hair crab fishery and for weathervane scallop fisheries under
10 AS 16.43.450 - 16.43.520.

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

12 (b) When the commission finds that a fishery, not designated as a distressed
13 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
14 reached levels of participation that require the limitation of entry under AS 16.43.140
15 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
16 establish the maximum number of entry permits for that fishery.

17 * Sec. 7. AS 16.43.240(c) is amended to read:

18 (c) When the commission finds that a fishery subject to a moratorium under
19 AS 16.43.225 has reached levels of participation that require the limitation of entry
20 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
21 commission shall establish the maximum number of entry permits for that fishery.

22 * Sec. 8. AS 16.43.960(a) is amended to read:

23 (a) The commission may revoke, suspend, or transfer all entry or interim-use
24 permits, vessel entry permits, or vessel interim-use permits held by a person or
25 entity who knowingly provides or assists in providing false information, or fails to
26 correct false information provided to the commission for the purpose of obtaining a
27 benefit for self or another, including the issuance, renewal, duplication, or transfer of
28 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
29 interim-use permit. The commission may suspend, as appropriate, that person's or
30 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
31 vessel interim-use permit for a period not to exceed three years, and may impose an

1 administrative fine of not more than \$5,000 on the person or [THE COMMISSION
2 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
3 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
4 knowingly provide or assist in providing false information, or fail to correct false
5 information provided, to the commission for the purpose of obtaining a benefit.

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

7 (a) A person who violates a provision of this chapter or a regulation adopted
8 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
9 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
10 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
11 first conviction, and a fine of not more than \$10,000 for a second or third conviction.
12 Upon a first or second conviction under this subsection, the court may in its discretion
13 also order the commission to suspend the commercial fishing privileges of the person
14 or entity for a period of not more than three years and to revoke one or more or all
15 commercial fishing permits held by the person or entity. Upon a third or subsequent
16 conviction under this subsection, the person or entity is also subject to a loss of
17 commercial fishing privileges as provided under (i) of this section. This subsection
18 does not apply to violations of AS 16.43.140(a).

19 * Sec. 10. AS 16.43.970(b) is amended to read:

20 (b) A person or entity who knowingly makes a false statement to the
21 commission for the purpose of obtaining a benefit, including the issuance, renewal,
22 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
23 interim-use permit, or vessel entry permit, or a person who assists another by
24 knowingly making a false statement to the commission for the purpose of obtaining a
25 benefit for another, is guilty of the crime of unsworn falsification as set out in
26 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
27 commercial fishing privileges and revocation of commercial fishing permits under (i)
28 of this section.

29 * Sec. 11. AS 16.43.970(d) is amended to read:

30 (d) If a permit holder is charged by the state with violating a provision of this
31 chapter or a regulation adopted under this chapter, the holder may not transfer [,

1 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
2 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
3 final adjudication or dismissal of the charges.

4 * Sec. 12. AS 16.43.970(e) is amended to read:

5 (e) Notwithstanding any other provision of this section, an interim-use or entry
6 permit or transferable vessel entry permit may not be transferred while under
7 suspension, without the consent of the commission

8 * Sec. 13. AS 16.43.970(f) is amended to read:

9 (f) A commercial fishing entry permit revoked under this section that is
10 pledged as security for a loan under AS 16.10.337, or 16.10.338, or AS 44.81.231
11 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

12 * Sec. 14. AS 16.43.970(i) is amended to read:

13 (i) Upon the conviction of a person or entity for an offense described under
14 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
15 conviction. The notice provided by the court shall be accompanied by an order
16 suspending commercial fishing privileges and revoking commercial fishing permits
17 under (a) of this section, as appropriate. The commission shall, upon receipt of

18 (1) an order from the court under (a) of this section, suspend the
19 commercial fishing privileges of a person or entity for the period set by the court and
20 revoke commercial fishing permits held by the person or entity as directed by the
21 court;

22 (2) a notice from the court that a person or entity has been convicted
23 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
24 privileges of the person or entity for a period of three years from the date of
25 conviction and revoke all commercial fishing permits held by the person or entity;

26 (3) a notice from the court that a person or entity has been convicted
27 of a violation described under (b) of this section, suspend all commercial fishing
28 privileges of the person or entity for a period of three years from the date of
29 conviction and revoke all commercial fishing permits held by the person or entity;

30 (4) a notice from the court that a person has been convicted of a
31 violation described under (g)(1) of this section, suspend all commercial fishing

1 privileges of the person for a period of one year from the date of conviction;

2 (5) a notice from the court that a person has been convicted of a
3 violation described under (g)(2) of this section, suspend all commercial fishing
4 privileges of the person for a period of two years from the date of conviction;

5 (6) a notice from the court that a person has been convicted of a
6 violation described under (g)(3) of this section, suspend all commercial fishing
7 privileges of the person for a period of five years from the date of conviction.

8 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

9 (1) "commercial fishing permit" means an entry permit, [OR] an
10 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
11 under this chapter;

12 * Sec. 16. AS 16.43.980(a) is amended to read:

13 (a) The commission shall prepare an annual report and notify the legislature
14 that it is available. The report must [SHALL] include but not be limited to the
15 following:

16 (1) a progress report on the reduction of entry permits to optimum
17 levels;

18 (2) recommendations for additional legislation relating to the
19 regulation of entry of participants and vessels into Alaska commercial fisheries.

20 * Sec. 17. AS 16.43.990(5) is amended to read:

21 (5) "person" means a natural person; "person" [AND] does not
22 include a corporation, company, partnership, firm, association, organization, joint
23 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
24 person;

25 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

26 (10) "entity" means a corporation, company, partnership, firm,
27 association, organization, joint venture, trust, society, or other legal entity other than a
28 natural person.

29 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt

1 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds
2 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

3 * **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

4 * **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

Kozak & Associates, Inc.
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April 9, 2001

Honorable Drew Scalzi, Co-Chair House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801

Honorable Beverly Masek, Co-Chair House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801

RE: House Bill 206

Representatives Scalzi and Masek:

I have had the opportunity to review HB 206 and would like to express support on behalf of my Alaskan clients for this legislation. The vessel owners I represent fish with either pot or longline gear in the Gulf of Alaska and Bering Sea/Aleutian Islands. They are license holders in the federal fisheries.

We are supporting the legislation for several reasons. The obvious reason is the current situation with the Korean hair crab and scallop moratorium, and this issue needs to be resolved. The answer is to allow for CFEC to limit the entry into those fisheries with a license program for vessel owners.

There is another reason why this bill is desperately needed as well. As you are aware, all of the crab and groundfish fisheries under federal management in Alaska are in some form of restricted access. The groundfish and Bering Sea crab fisheries are currently operating under a form of license limitation that is granted to the vessel owner. However, the federal license program does not extend into state waters. Therefore, vessels operating without a license can freely move into state waters when the federal groundfish fishery is open and displace those who have traditionally fished in waters near their community. I'm speaking primarily of large crab vessels, many of which are owned by residents of other states, who are looking for other fishery opportunities in the lean crab years. Many of these vessels do not have groundfish licenses to fish for Pacific cod and they are moving into near-shore areas where a license isn't needed and blanketing the area with pots. This causes havoc to the local fleet, as well as potential concerns with localized depletion. In light of management considerations for the Steller sea lion situation, this may cause near-shore areas to simply be closed to all fishing.

HB 206 Comments
April 9, 2001
Page Two

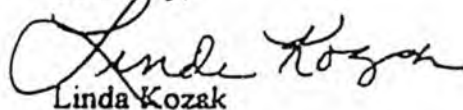
It must be reiterated that currently the State of Alaska has no way to even begin regulating these vessels, as the operations are conducted very differently than state managed fisheries. They are not fished primarily with the owner on board and skippers frequently change.

In order to begin to address this very serious issue, the Commercial Fisheries Entry Commission must have the tools in order to respond to the growing need for controls inside state waters for groundfish. The current CFEC limited entry authority just doesn't provide them with the ability to address a limited entry program similar to the federal system currently in place.

The proposed legislation provides ample protection for transfers of such licenses to be subsequently held by an individual. The fears that "corporate America" will take over the fishery are not only unfounded, they are uninformed and ridiculous.

Thank you for reviewing my comments.

Sincerely,



Linda Kozak

CC: Representative Gary Stevens

House Resources
Drew Scalzi and Beverly Masek, co-chair

Fax via 907 465-3472 3 pages plus 2 pages of tables

Re: HB 206

Follow up on testimony from your 4/3/01 hearing and testimony for 4/9/01 hearing. I wish to point out that although I oppose the bill, I have made several comments for changes that should be incorporated in case it does pass. This is not inconsistent testimony as was mentioned by the CFEC, but rather two tracks depending on the action of the committee.

There seems to be the FALSE impression within the committee that Alaska needs to have a vessel owner based limited entry system for federal waters in order to maintain management over these FEDERAL FISHERIES. That is not true. The State manages the entire Bering Sea King, Tanner, and Opilio crab fisheries for the feds without such a system. The State also manages the sablefish and cod fisheries in State 0-3 mile waters under different principles than the federal government managing the same fisheries 3-200 miles. These are prime examples of the State fishery management empowering fishermen and providing for much economic activity to local coastal communities that would have disappeared if the large vessel owners that harvest most of the federal quota could have gotten the State to 'mirror' the federal vessel owner programs and give all the fishing rights to them. The history of State fishery management shows that FINDINGS four and five are simply speculative propositions but really are NOT NECESSARY.

My chief concerns with the bill are its future impacts on limited entry in fisheries other than scallops and Korean Hair Crab. The testimony by proponents of this bill at the 4/3 hearing was that the scallop fleet was now 'taken care of' under the federal program that went into place after the original attempt to change the State Limited Entry program in 1996. I researched with the NPFMC and found out the crab testifiers were correct, and I was mistaken, in that any vessel could participate in the Hair crab fishery without having the federal Bering Sea crab LLP [federal limited permit]. I do not know why those corporate fishermen did not go through the same process as the scallop fishermen to get federal resolution by including Hair Crab as an LLP species with a specie endorsement. Why should the State now 'need' to change its laws because these vessel owners did not go through the available NPFMC process?

However, you did hear Hair Crab license holder, Mr. John Winters, testify that he thinks this program would be good for the State waters Pacific cod fishery. ***So please recognize that proponents believe this vessel owner / corporate model should be used in other State limited entry plans and not limited to the Korean Hair Crab fishery. ***

Putting this "option" or "tool" in CFEC's hands might not lead to immediate use for other fisheries because of the philosophy of the current CFEC commissioners. However, commissioners change, especially if political pressure is applied by the wealthiest members of the fishing industry -- the vessel owners - to get appointments of future

commissioners who agree with their point of view [permits should be granted based only on vessel ownership]. The last thing we need is to foster dissention within our communities and pit owners against captains who are (were) often friends.

*** I talked with ADF&G and found that very little of the deep dwelling, Korean Hair Crab exist in the 0-3 mile State waters. Therefore, the only specie this bill is predicated upon is not a significant State fishery. In fact, the moratorium on new entrants is not complete by statute and regulation. All of the State waters are open to new entrants, although maybe only to vessels under 58 feet. The moratorium on licenses only applies to waters beyond 5 miles from shore. Therefore, the existing management recognizes a dual track for inside and outside waters [unlicensed and licensed vessels]. It appears this vessel owner system would eliminate the current small vessel crab fishery allowed within State waters managed under a guideline harvest [just like sablefish]. Does the legislature have a problem with providing some near shore harvest for local boats instead of giving all access to the large offshore fleet owners?

Improvements to HB 206, if you proceed with this bill:

I have pondered the real reason these fishermen would be pressing so hard for a change to State law for this little fishery. I have now learned that they plan to form a co-op to harvest the crab so want a closed class of vessels like in the American Fisheries Act. In fact, a co-op would let the approximately 24 licensed vessels designate 3 or 4 vessels to do all the fishing, cut out the majority of the crew, and have the corporate vessel owners split all the proceeds. This would 'free up' the 20 other large vessels to concentrate in other fisheries - further overcapitalizing and impacting those other fisheries. There are no "sideboards" under this plan to constrain these vessels from moving into the fully utilized Gulf of Alaska fisheries or other Bering Sea Aleutian Island fisheries. The American Fisheries Act for pollock at least had "sideboards" specifically incorporated to prevent those 'freed up' vessels from crowding other fisheries while their huddies harvested their vessels' "shares" of pollock. However, these % of harvest sideboards have proven ineffective *** So, if you do approve this bill, please mandate that vessels named on these special First Generation Vessel Limited Entry Permits could not participate in any other state managed fishery while the fishing season is open for their permit specific fishery. *** NEW SECTION NEEDED

Section 16.43.480

This bill attempts to use 'change of ownership of a permitted vessel' as the only criterion to trigger the second-generation transfer to a "person". The ownership, especially of corporation owned vessels, is very difficult to trace and even the National Marine Fisheries Service is having severe problems with tracking true ownership transfers within its programs. The rationale for the "vessel based" system was to provide stability for current operations, and a phase in time. A 'current operation' really ends with change of ownership OR substitution of another vessel. Either of these events should trigger the 'natural person permit holder on board' transfer provision. Anytime a vessel is substituted the operation has significantly changed. Again, if the goal of the issuing First Generation permits was to allow for current operations, this should be no problem. This

also assures the State with some certainty that permits will change in the future to the State's fisherman based system when the current operation boats are lost, retired or sold.
*** ELLIMINATE ALL SUBSTITUTION; Sec. 16.43.480 (d) and Sec. 16.43.490 ***

*** The Federal moratorium and LLP allowed a 20% length extension of the vessel within the license. CFEC testified that they could limit growth to "class" of vessel but that is a very broad range, generally under 60 feet, 60 to 125 feet and above 125 feet. I see nothing in this bill requires that CFEC to limit the growth of individual vessels or limit the expansion capacity of substituted vessels. Again, the rationale for this bill has been to allow continuation of current operation [a current operation changes by expanding capacity of the named vessel]. ***ADD SECTION MANDATING NO VESSEL LENGTH OR CAPACITY INCREASE WITHOUT TRIGGER OF 2ND GENERATION PERMIT TRANSFER PROVISION. ***

Finally, I want to be sure the committee is informed on the character of this Hair Crab fishery. I am faxing two pages of the catches and participation in this fishery from the ADF&G report. You will note that there were zero (0) landings in 1988, 1989, and 1990. It then climbed to 21 boats and about 1.5 million pounds in 1995. Since then it has steadily declined so that by 1999 there were only 8 boats participating with a total of 140,000 pounds of crab delivered. Last year the main fishing area around the Fribilof Islands was completely closed because of low stock abundance. Three vessels went to the open Northern District, but together delivered only 1,500 pounds [yes, that is one thousand five hundred pounds]. Biologists do not expect this fishery to be open in the next couple of years because they are seeing no significant recruitment. By the time the fishery becomes significant again, all the current vessel owner corporations may be completely out of this business. Why should you change State law to set up a system that will issue probably 24 to 26 permits – more than fished in any year since 1983 – for a fishery that is not a management problem other than having a highly cyclic stock.

Thank you, and I hope you will reject HB206 from further consideration, but if not, please incorporate the above changes.

Sincerely,

Paul K. Seaton 4/7/01

Paul K. Seaton
58395 Bruce St.
Homer, AK 99603
Ph & fax 907 235-6342

FROM : K-N-S MARINE
03/08/01 14:50 PAX BU/38112

FOX NO. : 987 235 6342
AUPFAU DUTCH HARBOR

Apr. 07 2001 09:03AM . P4
0002

Table 5-30. Bering Sea District Korean hair crab fishery data, 1978-1999.

Year	Number of		Crab ^a	Harvest ^b	Pots		Average		Deerlings ^d
	Vessels	Landings			Registered	Used	CPUE ^c	Weight ^e	
1978/79	11	16	2,457	5,213		0,008	<1	2.1	0
1979/80	8	17	25,417	53,914		14,008	2	2.1	0
1980/81	07	192	1,127,309	2,439,483		172,806	7	2.2	265,188
1981/82	48	159	468,580	932,684		117,518	4	2.0	29,748
1982/83	52	181	575,153	1,211,420		81,348	7	2.1	122,458
1983/84	19	48	200,870	408,838		20,414	10	2.0	28,062
1984	7	28	197,208	393,630		22,392	8	2.0	19,436
1985	3	9	34,410	68,042		3,905	9	2.0	593
1986	3	7	7,280	14,886		4,720	2	2.0	600
1987	2								
1988									
1989									
1990									
1991	7	42	441,633	377,708		44,444	10	.9	0
1992	8	20	203,768	240,767		38,808	6	1.2	11,495
1992	10	47	1,127,948	1,108,590		125,443	8	1.1	65,874
1993	4	5	2,347	3,038		8,345	<1	1.3	0
1993/94	19	129	1,930,705	2,331,888		585,913	3	1.2	124,318
1994	10	55	897,070	1,190,248	13,350	287,854	3	1.3	48,275
1995	21	81	1,435,097	2,059,868	25,750	441,484	3	1.4	73,882

-Continued-

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Table S-30. (Page 2 of 2)

Year	Number of		Crab ^a	Harvest ^b	Pots		Average		Deadloss ^c
	Vessels	Landings			Registered	Lifted	CPUE ^d	Weight ^e	
1996	10	89	185,736	745,004	20,880	410,648	1	1.5	32,436
1997	16	62	420,121	868,098	18,180	211,970	2	1.8	17,522
1998	12	31	188,784	307,730	14,330	128,498	2	1.8	17,382
1999	8	27	130,894	221,658	8,840	82,333	1	1.8	4,677

^aDeadloss included.

^bIn pounds.

^cNumber of legal crabs per pot lift.

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S/S





Alaska State Legislature

Please enter into the record my testimony to the House Resource Committee
 committee name
 committee on HB 206, dated 4/9/01
 bill/subject

I am opposed to House Bill 206 - vessel limited entry. This would be a major policy shift for the state of Alaska. This has not had broad public scrutiny or debate. The Canadians are having a lot of social problems with vessel limited entry. If it is intended to be temporary then there are other ways, such as vessel moratorium extension, to deal with the issue while preserving state policy to have operator-based harvesting rights.

Signed: Oliver N Holm chickon@gci.net

Testifier

Representing (Optional)

PO Box 3865 Kodiak 99615

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April 9, 2001

Honorable Drew Scalzi, Co-Chair House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801

Honorable Beverly Masek, Co-Chair House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801

RE: House Bill 206

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I have had the opportunity to review HB 206 and would like to express support on behalf of my Alaskan clients for this legislation. The vessel owners I represent fish with either pot or longline gear in the Gulf of Alaska and Bering Sea/Aleutian Islands. They are license holders in the federal fisheries.

We are supporting the legislation for several reasons. The obvious reason is the current situation with the Korean hair crab and scallop moratorium, and this issue needs to be resolved. The answer is to allow for CFEC to limit the entry into those fisheries with a license program for vessel owners.

There is another reason why this bill is desperately needed as well. As you are aware, all of the crab and groundfish fisheries under federal management in Alaska are in some form of restricted access. The groundfish and Bering Sea crab fisheries are currently operating under a form of license limitation that is granted to the vessel owner. However, the federal license program does not extend into state waters. Therefore, vessels operating without a license can freely move into state waters when the federal groundfish fishery is open and displace those who have traditionally fished in waters near their community. I'm speaking primarily of large crab vessels, many of which are owned by residents of other states, who are looking for other fishery opportunities in the lean crab years. Many of these vessels do not have groundfish licenses to fish for Pacific cod and they are moving into near-shore areas where a license isn't needed and blanketing the area with pots. This causes havoc to the local fleet, as well as potential concerns with localized depletion. In light of management considerations for the Steller sea lion situation, this may cause near-shore areas to simply be closed to all fishing.

HB 206 Comments
April 9, 2001
Page Two

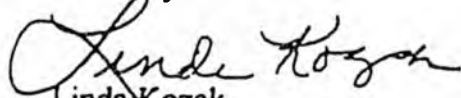
It must be reiterated that currently the State of Alaska has no way to even begin regulating these vessels, as the operations are conducted very differently than state managed fisheries. They are not fished primarily with the owner on board and skippers frequently change.

In order to begin to address this very serious issue, the Commercial Fisheries Entry Commission must have the tools in order to respond to the growing need for controls inside state waters for groundfish. The current CFEC limited entry authority just doesn't provide them with the ability to address a limited entry program similar to the federal system currently in place.

The proposed legislation provides ample protection for transfers of such licenses to be subsequently held by an individual. The fears that "corporate America" will take over the fishery are not only unfounded, they are uninformed and ridiculous.

Thank you for reviewing my comments.

Sincerely,


Linda Kozak

CC: Representative Gary Stevens

House Resources
Drew Scalzi and Beverly Masek, co-chair

Fax via 907 465-3472 3 pages plus 2 pages of tables

Re: HB 206

Follow up on testimony from your 4/3/01 hearing and testimony for 4/9/01 hearing. I wish to point out that although I oppose the bill, I have made several comments for changes that should be incorporated in case it does pass. This is not inconsistent testimony as was mentioned by the CFEC, but rather two tracks depending on the action of the committee.

There seems to be the FALSE impression within the committee that Alaska needs to have a vessel owner based limited entry system for federal waters in order to maintain management over these FEDERAL FISHERIES. That is not true. The State manages the entire Bering Sea King, Tanner, and Opilio crab fisheries for the feds without such a system. The State also manages the sablefish and cod fisheries in State 0-3 mile waters under different principles than the federal government managing the same fisheries 3-200 miles. These are prime examples of the State fishery management empowering fishermen and providing for much economic activity to local coastal communities that would have disappeared if the large vessel owners that harvest most of the federal quota could have gotten the State to 'mirror' the federal vessel owner programs and give all the fishing rights to them. The history of State fishery management shows that FINDINGS four and five are simply speculative propositions but really are NOT NECESSARY.

My chief concerns with the bill are its future impacts on limited entry in fisheries other than scallops and Korean Hair Crab. The testimony by proponents of this bill at the 4/3 hearing was that the scallop fleet was now 'taken care of' under the federal program that went into place after the original attempt to change the State Limited Entry program in 1996. I researched with the NPFMC and found out the crab testifiers were correct, and I was mistaken, in that any vessel could participate in the Hair crab fishery without having the federal Bering Sea crab LLP [federal limited permit]. I do not know why those corporate fishermen did not go through the same process as the scallop fishermen to get federal resolution by including Hair Crab as an LLP species with a specie endorsement. Why should the State now 'need' to change its laws because these vessel owners did not go through the available NPFMC process?

However, you did hear Hair Crab license holder, Mr. John Winters, testify that he thinks this program would be good for the State waters Pacific cod fishery. ***So please recognize that proponents believe this vessel owner / corporate model should be used in other State limited entry plans and not limited to the Korean Hair Crab fishery. ***

Putting this "option" or "tool" in CFEC's hands might not lead to immediate use for other fisheries because of the philosophy of the current CFEC commissioners. However, commissioners change, especially if political pressure is applied by the wealthiest members of the fishing industry - the vessel owners - to get appointments of future

commissioners who agree with their point of view [permits should be granted based only on vessel ownership]. The last thing we need is to foster dissention within our communities and pit owners against captains who are (were) often friends.

*** I talked with ADF&G and found that very little of the deep dwelling, Korean Hair Crab exist in the 0-3 mile State waters. Therefore, the only specie this bill is predicated upon is not a significant State fishery. In fact, the moratorium on new entrants is not complete by statute and regulation. All of the State waters are open to new entrants, although maybe only to vessels under 58 feet. The moratorium on licenses only applies to waters beyond 5 miles from shore. Therefore, the existing management recognizes a dual track for inside and outside waters [unlicensed and licensed vessels]. It appears this vessel owner system would eliminate the current small vessel crab fishery allowed within State waters managed under a guideline harvest [just like sablefish]. Does the legislature have a problem with providing some near shore harvest for local boats instead of giving all access to the large offshore fleet owners?

Improvements to HB 206, if you proceed with this bill:

I have pondered the real reason these fishermen would be pressing so hard for a change to State law for this little fishery. I have now learned that they plan to form a co-op to harvest the crab so want a closed class of vessels like in the American Fisheries Act. In fact, a co-op would let the approximately 24 licensed vessels designate 3 or 4 vessels to do all the fishing, cut out the majority of the crew, and have the corporate vessel owners split all the proceeds. This would 'free up' the 20 other large vessels to concentrate in other fisheries - further overcapitalizing and impacting those other fisheries. There are no "sideboards" under this plan to constrain these vessels from moving into the fully utilized Gulf of Alaska fisheries or other Bering Sea Aleutian Island fisheries. The American Fisheries Act for pollock at least had "sideboards" specifically incorporated to prevent those 'freed up' vessels from crowding other fisheries while their huddies harvested their vessels' "shares" of pollock. However, these % of harvest sideboards have proven ineffective *** So, if you do approve this bill, please mandate that vessels named on these special First Generation Vessel Limited Entry Permits could not participate in any other state managed fishery while the fishing season is open for their permit specific fishery. *** NEW SECTION NEEDED

Section 16.43.480

This bill attempts to use 'change of ownership of a permitted vessel' as the only criterion to trigger the second-generation transfer to a "person". The ownership, especially of corporation owned vessels, is very difficult to trace and even the National Marine Fisheries Service is having severe problems with tracking true ownership transfers within its programs. The rationale for the "vessel based" system was to provide stability for current operations, and a phase in time. A 'current operation' really ends with change of ownership OR substitution of another vessel. Either of these events should trigger the 'natural person permit holder on board' transfer provision. Anytime a vessel is substituted the operation has significantly changed. Again, if the goal of the issuing First Generation permits was to allow for current operations, this should be no problem. This

also assures the State with some certainty that permits will change in the future to the State's fisherman based system when the current operation boats are lost, retired or sold.
*** ELLIMINATE ALL SUBSTITUTION; Sec. 16.43.480 (d) and Sec. 16.43.490 ***

*** The Federal moratorium and LLP allowed a 20% length extension of the vessel within the license. CFEC testified that they could limit growth to "class" of vessel but that is a very broad range, generally under 60 feet, 60 to 125 feet and above 125 feet. I see nothing in this bill requires that CFEC to limit the growth of individual vessels or limit the expansion capacity of substituted vessels. Again, the rationale for this bill has been to allow continuation of current operation [a current operation changes by expanding capacity of the named vessel]. ***ADD SECTION MANDATING NO VESSEL LENGTH OR CAPACITY INCREASE WITHOUT TRIGGER OF 2ND GENERATION PERMIT TRANSFER PROVISION. ***

Finally, I want to be sure the committee is informed on the character of this Hair Crab fishery. I am faxing two pages of the catches and participation in this fishery from the ADF&G report. You will note that there were zero (0) landings in 1988, 1989, and 1990. It then climbed to 21 boats and about 1.5 million pounds in 1995. Since then it has steadily declined so that by 1999 there were only 8 boats participating with a total of 140,000 pounds of crab delivered. Last year the main fishing area around the Pribilof Islands was completely closed because of low stock abundance. Three vessels went to the open Northern District, but together delivered only 1,500 pounds [yes, that is one thousand five hundred pounds]. Biologists do not expect this fishery to be open in the next couple of years because they are seeing no significant recruitment. By the time the fishery becomes significant again, all the current vessel owner corporations may be completely out of this business. Why should you change State law to set up a system that will issue probably 24 to 26 permits – more than fished in any year since 1983 – for a fishery that is not a management problem other than having a highly cyclic stock.

Thank you, and I hope you will reject HB206 from further consideration, but if not, please incorporate the above changes.

Sincerely,

Paul K. Seaton 4/7/01

Paul K. Seaton
58395 Bruce St.
Homer, AK 99603
Ph & fax 907 235-6342

Table 5-30. Bering Sea District Korean hair crab fishery data, 1978-1999.

Year	Number of		Crab ^a	Harvest ^{a,b}	Pots		Average		Deadloss ^b
	Vessels	Landings			Registered	Used	CPUE ^c	Weight ^d	
1978/79	11	16	2,457	5,213		9,908	<1	2.1	0
1979/80	9	17	25,417	53,914		14,008	2	2.1	0
1980/81	07	192	1,127,309	2,430,483		172,896	7	2.2	265,188
1981/82	48	160	468,580	932,684		117,518	4	2.0	29,749
1982/83	52	181	575,453	1,211,420		84,348	7	2.1	122,458
1983/84	19	48	200,870	408,638		20,414	10	2.0	28,062
1984	7	28	197,208	390,690		22,392	9	2.0	19,436
1985	3	9	94,410	68,042		3,905	9	2.0	593
1988	3	7	7,280	14,886		4,720	2	2.0	500
1987	2								
1988									
1989									
1990									
1991	7	42	441,533	377,708		44,444	10	.9	0
1992	8	20	203,768	240,767		38,808	6	1.2	11,495
1992	10	47	1,127,948	1,108,590		125,943	9	1.1	65,874
1993	4	5	2,347	3,038		8,345	<1	1.3	0
1993/94	18	129	1,938,785	2,331,888		585,913	9	1.2	124,398
1994	10	55	897,070	1,190,248	13,350	287,854	3	1.3	49,276
1995	21	81	1,485,097	2,059,988	25,750	441,484	3	1.4	73,802

-Continued-

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485

Table 5.30. (Page 2 of 2)

Year	Number of		Crab ^a	Harvest ^b	Pots		Average CPUE ^c	Average V _{pot} ^d	Deadloss ^e
	Vessels	Landings			Registered	Used			
1986	10	99	195,736	745,804	20,860	410,848	1	1.5	32,436
1987	16	52	420,121	888,098	18,180	211,970	2	1.8	17,522
1988	12	31	188,784	307,730	14,320	128,485	2	1.8	17,392
1989	8	27	139,694	221,658	8,840	82,333	1	1.6	-1,677

^aDeadloss included.

^bIn pounds.

^cNumber of legal crabs per pot lift.





Alaska State Legislature

Please enter into the record my testimony to the House Resource Committee
committee name

committee on HR 206, dated 4/9/01
bill/subject

I am opposed to House Bill 206 - vessel limited entry. This would be a major policy shift for the state of Alaska. This has not had broad public scrutiny or debate. The Canadians are having a lot of social problems with vessel limited entry. If it is intended to be temporary then there are other ways, such as vessel moratorium extension, to deal with the issue while preserving state policy to have operator-based harvesting rights.

Signed: Oliver N Holm chickon@gci.net

Testifier

Representing (Optional)

PO Box 3865 Kodiak 99615

Address

907-486-6957

Phone No.



Alaska Native Brotherhood Camp 2

320 W. Willoughby Avenue, Suite 100*Juneau, AK 99801* 907-586-2049*fax: 586-3301*email anbcamp2@gci.net

April 2, 2001

Kenai Native Association
Attn: Rick Segura, Pres.
215 Fidalgo
Kenai, Alaska 99611

Dear Rick:

As you are aware, Alaska Native Brotherhood Camp #2 has been inquiring as to the health and safety of our people incarcerated at the prison in Florence Arizona. We have found that the basic living conditions are deplorable.

We had our legal personnel go to Arizona and interview some of our Alaska Native prisoners. They found that there is a high rate of physical abuse, mistreatment, very bad drinking water; food is very bad (please see the attached). Alaska Native Brotherhood is receiving over 100 letters & phone calls from families and prisoners about wanting to file a class action lawsuit to bring our people home. Duke Law University published a law review article that supports a foundation for such a class action. "More Than Just a Private Affair: Is the Practice of Incarcerating Alaska Prisoners in Private out-of-state prisons unconstitutional." Cited 17 Alaska L. Rev. 319. Alaskan Natives who are sent out of the state receive virtually no visitation with family members and even the cost of phone contact is prohibitively high for these families. Most experts seem to agree that visitation is the most important factor to any possibility of effective rehabilitation.

It is our belief that this issue should be addressed and that the President of the AFN should include the complaints in her federal investigation of hate crimes and human rights.

Prisoners' were being mistreated has been a concern with the Dept. of Corrections. Alaskan Natives compose of 52% of the inmate deaths that occurred while in prison. However, Alaskan Natives compose only 37% of the whole prison population. Alaska Native prisoners have been largely forgotten and we pray to bring their plight to the attention of our leaders.

Sincerely,

Ralph Knudson, V.P.

Alaska Native Brotherhood Camp Nos. 2, Inc.

1 IN THE STATE OF ARIZONA)
2 IN AND FOR PINAL COUNTY) ss.

3 AFFIDAVIT OF EDWARD BRUCE

4 COMES NOW, Edward Bruce, #190221, to DEPOSE and SAY:

- 5 1. That I am Edward Bruce, the individual stated herein;
- 6 2. That I am currently incarcerated at C.A.D.C., a private corporation, located in Florence, Arizona;
- 7 3. That it is my belief that the State of Alaska, in
- 8 illegally transferring me to the Central Arizona Detention Center,
- 9 has effectively relinquished and lost any and all jurisdiction and
- 10 custody over my person;
- 11 4. That on or about the 11 of June 1996, I observed dozens
- 12 of empty meat cartons inside and beside the trash repository;
- 13 5. That I secured six (6) label's off empty boxes after
- 14 noticing that the label's read: "NOT FOR SALE" "FOR TEST PURPOSES
- 15 ONLY;"
- 16 6. That I took these label's after reading them for
- 17 Attorney and court purposes only, because I was worried about the
- 18 food from these empty containers that we had eaten;
- 19 7. That after CCA employees and the Warden discovered that
- 20 I had these label's, they shook down my living area and threw me
- 21 in the hole;
- 8. That CCA employees interrogated me while in the hole,
- concerning where the labels were (?), who had seen them (?), etc
- 9. That CCA employees terminated my employment as kitchen
- worker because of my non-cooperation during interrogation about
- the label's, my only source of employment and income.

AFFIANT SAYETH NAUGHT FURTHER

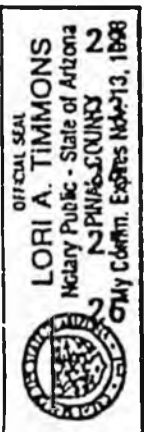
SIGNED AND DATED, this 3 day of July, 1996.

ON THIS DATE, the 3rd day of the month of July, 1996, personally appeared Edward Bruce EDWARD BRUCE before me, Edward Bruce, known to me to be the individual set forth as such, and declared the foregoing to be true and correct the best of his knowledge and belief, and made of his own free w

SWORN AND SUBSCRIBED on this 3rd day of July, 1996.

Lori A. Timmons
Notary Public - State of Arizona
2 Pinal County
My Comm. Expires 12-31-1998
NOTARY FOR THE STATE OF ARIZONA

Nov. 13, 1998
MY COMMISSION EXPIRES:





BEEF PATTIE BULK 1 LB

INGREDIENTS: BEEF, SALT, HYDROGENATED COTTONSEED AND SOYBEAN OIL,
HYDROLYZED SOY AND CORN PROTEIN, SPICE EXTRACTIVE, DEXTROSE, SPICE
AND LESS THAN 2% SILICON DIOXIDE AGENT TO PREVENT CAKING.

**NOT FOR SALE
FOR TEST PURPOSES ONLY**

77101T

**KEEP FROZEN
NET WT. 16 LBS.**

Cargill Processed Meat Products Wichita, KS 67202

COMMITTED TO QUALITY

XHIBIT B (Evidence)

iv 96-0366-PHX-ROS (BGS)

iv 96-0588-PHX-RCB (VAM)

iv 96-0366-PHX (BGS)

KENAI NATIVES ASSOCIATION, INC.

215 FIDALGO AVENUE, SUITE 101
KENAI, ALASKA 99611

TANGENT BUILDING

www.knainc.com

OFFICE: (907) 283-4851

FAX: (907) 283-4854

April 4, 2001

Julie Kitka
Alaska Federation of Natives
1577 C Street #300
Anchorage, AK 99501

VIA FAX: (907) 276-7989

Dear Ms. Kitka:

I hope you will take a few minutes out of your busy schedule and read this letter. I am also sending this letter to Carl Marrs and Gloria O'Neill.

As you well know by now Kenai Natives Association, Inc. along with the Kenai Peninsula Borough and Cornell Corrections is aggressively pursuing the building of a private prison which is to be located on KNA land.

From KNA's prospective it of course started out with economic gains in mind. I would of course be shirking my duty as president and C.E.O. if I were to say otherwise. As I began to research the incarceration of prisoners in Alaska and the overcrowding problem, I began to get a picture of a much greater and culturally deeper rooted problem. I found that a disproportionate number of prisoners were Alaskan Native (over 35%). I also began to find that a large majority of Alaskan Native prisoners were getting longer jail sentences and if my findings are correct any prisoner with a sentence of one to two years or more can be sent out of state, i.e. Arizona. This unfortunately is happening far too often when it comes to our people.

As of late, there has been an outcry among the Native community statewide that racial profiling is taking place in the form of violence and bigotry on the streets and in the job market. I am ashamed to say it has happened to me personally but by God's grace I have learned to forgive.

The point I am leading to is that we have brothers and sisters of like culture in prisons who are also being profiled as Native drunks and troublemakers. I believe they too need our help. A lot of them will be out someday and somebody needs to be there for them. Forgive me for being so bold in asking for your help, but better to have tried and failed than not to try at all. As well known and influential leaders in the Native community, I am asking that you join with me in calling a meeting with Governor Knowles and show your support for this prison project on the Peninsula. Not only do we want to bring all

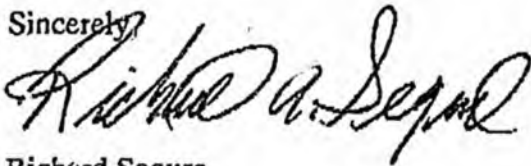
Julie Kitka
April 4, 2001
Page 2

Alaskans home, but with deeper cultural roots of compassion, we want to bring home our brothers and sisters.

There are no definite answers or solutions to the problems of substance abuse or the high incarceration rate among our people, but what I do know is that the Department of Corrections' programs are not lowering the recidivism rate that is now at its current level. Personally I would like to see our people counseling our people, empowering our people with Native based culturally oriented programs. If we do not, who will?

I think you have done a wonderful job representing important Native issues throughout Alaska, and being known as a leader with compassion speaks volumes within the Native community. So in closing I would once again ask your help and that of other Native leaders to meet with the Governor as a show of solidarity in support of the building of a private prison on the Kenai Peninsula. Let's bring our people home!

Sincerely,



Richard Segura
President/C.F.O.

Cc: Gloria O'Neill, CITC
Fax: (907) 265-5996

Albert Kookesh, AFN
Fax: (907) 276-7989

Carl Marrs, CIRI
Fax: (907) 279-8836

Clare Swan, CITC
Fax: (907) 265-5996

George Wright, KNA
Fax: (907) 790-3553



Grand Camp

**Alaska Native Brotherhood
Alaska Native Sisterhood**



GCR 00-40

A Resolution Endorsing Construction of Privately owned Prison by Kenai Native Assoc.

Whereas, The Kenai Native Association, Inc. (KNA) has undertaken the development of a private prison to be located on their Wildwood property on the Kenai Peninsula; and

Whereas, The State of Alaska currently sends 1500+ Alaskan prisoners, 37% of whom are Alaska Native, to a private prison in Arizona because of the overcrowding in Alaska prisons; and

Whereas, Having Alaska Native males so far from their homes and villages places undue hardship on their families and also deprives them of cultural considerations while serving their sentences; and

Whereas, The State of Alaska spends over \$18 million per year to keep these prisoners in Arizona while the funds could better be spent by supporting the development of the privately-owned prison at Wildwood; and

Whereas, The proposed privately owned prison facility being developed by KNA would be more adept at meeting the cultural and rehabilitative needs of the Alaska Native prisoners; and

Whereas, The completion of the facility would assist in the effort to bring our people home from confinement in Arizona; now, therefore, be it

Resolved, That the Alaska Native Brotherhood and the Alaska Native Sisterhood endorse the Kenai Native Association's proposal for a private prison at Wildwood on the Kenai Peninsula.

Approved by the ANB and ANS in convention on November 4, 2000 in Juneau, Alaska

Richard Jackson

Richard Jackson, Grand President
Alaska Native Brotherhood

Jackie Martin

Jackie Martin, Grand President
Alaska Native Sisterhood



Grand Camp

*Alaska Native Brotherhood
Alaska Native Sisterhood*



GCR 00-44

A Resolution Requesting Investigation of Disproportionate Incarceration of Alaska Natives

WHEREAS, the State of Alaska sends young men out to a private prison at Florence, Arizona run by the Corrections Corporation of America where approximately 600 indigenous inmates from many tribes are many thousands of miles distant from their tribal lands; and

WHEREAS, an Alaska Indian incarcerated in Arizona was denied medical treatment for a broken hand and is permanently maimed; and

WHEREAS, the traffic in jailing indigenous peoples away from their homelands for profit amounts to interstate commerce on human beings; now, therefore, be it

Resolved, That the Alaska Native Brotherhood and the Alaska Native Sisterhood urge the State of Alaska to form a commission of independent investigators to analyze the disproportionate incarceration of Alaska Natives and provide a full report on such analysis to Native organizations and to the International Human Rights Association of American Minorities.

Further resolved, That the Alaska Native Brotherhood and the Alaska Native Sisterhood urge that all out of state transfers of indigenous inmates be stopped immediately.

Approved by the ANB and ANS in convention on November 4, 2000 in Juneau, Alaska

Richard Jackson, Grand President
Alaska Native Brotherhood

Jackie Martin, Grand President
Alaska Native Sisterhood

AFFIDAVIT OF RON BLOOMSTRAND

STATE OF ARIZONA)
 : ss
PINAL COUNTY)

I, Ron Bloomstrand, first being duly sworn upon oath, deposes and states the following:

1. I have personal knowledge of the facts set forth herein.

2. I am an Alaskan prisoner housed here at Corrections Corporation of America ("CCA"), doing business as, Central Arizona Detention Center ("CADC") under a contract that CCA/CADC has with Alaska Department of Corrections ("DOC").

3. At all times relevant to the incident described in this affidavit, said incidents took place at CCA/CADC.

4. On November 9th, 2000, at about 10:00 am, I went to the prison library to make photo-copies of legal paperwork that I need to litigate my present and future claims.

5. At this time I was instructed by CCA/CADC employee FIORINI that I could not make photo-copies of my legal paperwork and that I would have to come back the following week.

6. On November 14th, 2000, at approximately 10:00 am, I went back to the prison library to make my needed photo-copies of my legal paperwork.

7. At this time I was once again told by CCA/CADC employee Fiorini that I could not make this needed photo-copies and was told to come back the following week on my library day.

8. I went back to the prison law library and on my way, I saw Mr Samberg and explained my problem to him. Mr Samberg told me that he had not heard of such a rule and further told me to take my legal paperwork to my Case Manager and have him copy it for me.

9. On November 21st, 2000, at approximately 10:00 am, I once again went to the prison library to make photo-copies of other legal paperwork concerning litigation of my present and future claims.

10. At this time I was told by CCA/CADC employee Fiorini that I would only be allowed to make my legal copies on my scheduled library day which is Wednesday of each week.

11. At this time I told CCA/CADC employee Fiorini that I would come back tomorrow which would have been November 22nd, 2000.

12. CCA/CADC employee Fiorini informed me that Wednesday, November 22nd, 2000, the library would be closed for the holidays and that I would have to come back next week after the holidays since every thing would be closed until November 28th, 2000.

13. On Tuesday, November 27th, 2000, at approximately 10:00 am, I went back to the prison library in hopes of being able to make phot-copies of my greatly needed legal paperwork because I was not able to make these legal copies for over ten (10) days at this time and for the fact that my scheduled library day for the week prior was closed for the holidays.

14. At this time CCA/CADC employee Fiorini informed me that I would have to come back on Wednesday, November 29th, 2000.

15. On Wednesday, November 29th, 2000, at approximately 9:00 am, I went back to the prison law library to try to make my legal copies since this was my scheduled library day.

16. At that time I was informed by CCA/CADC employee Fiorini that the library was closed and that I would have to come back at 1:00 pm.

17. On Wednesday, November 29th, 2000, at approximately 1:00 pm, I again went back to the prison law library to try and make photo-copies of my legal paperwork.

18. At that time, I was informed by CCA/CADC employee Fiorini that the library was still closed and that I would have to come back next week on my scheduled library day to get my legal paperwork photo-copies.

19. Since I was sent to CCA/CADC in March of 1998, as a general rule, the policy for prisoners to make legal photo-copies was that the prisoner was allowed to make these copies when the prison library was open.

20. In the affiant's belief, on November 14th, 2000, at approximately 10:00 am when I was returning from being denied my legal photo-copies, I had a conversation with Mr Samberg, who is Warden of CCA/CADC, about the policy at CCA/CADC in regards to the photo-copying of legal paperwork.

21. I brought to Mr Samberg's attention the fact that CCA/CADC employee Fiorini had been denying me access to make my legal photo-copies unless it was my library day.

22. I asked Mr Samberg if there had been a change in the policy on how legal photo-copies are made to where I can only go make them on my scheduled library day?

23. Mr Samberg stated that he was not aware of any policy change in this matter.

24. Mr Samberg also asked me who my Case Manager was and told me to have the legal papers that I needed to make photo-copies of to have my Case Manager make the legal photo-copies for me.

25. Mr Carrier is my Case Manager. I told him what Mr Samberg said and at that time he went and made the legal photo-copies that I needed at that time.

26. Because of the conflicting views on the policy here at CCA/CADC at this time about the photo-copying of legal paperwork, I submitted three (3) prisoner information request ("copout") form to find out what the policy and procedure that is to be followed in this matter.

27. On November 29th, 2000, I submitted these three (3) "Copouts" to Michael Samberg, Warden of CCA/CADC, Ms Judy Gette, Alaska Probation Officer, and the Chief of Security, CCA/CADC.

28. Because of the copout submitted to the Chief of Security, CCA/CADC, I was threaten by an employee of CCA/CADC, Lt Grammer.

29. This took place on November 30th, 2000, at the noon meal because I was not able to eat my meal since I was told to report immediately to the Security Office in 700 Unit.

30. When I arrived (700 Unit, Security Office) there I looked into the the office, at which time I observed Lieutenant Grammer in the office, I asked if this was the Chief of Security's office? (Here is what transpired to the best of my memory).

Lieutenant Grammer (hereafter Lt Grammer)

"What is your name?"

Ron Bloomstrand (hereafter affiant)

"Bloomstrand"

Lt Grammer

"Ya, you come in here!"

Affiant

"What is this all about?"

Lt Grammer

"Is this your copout?"

Affiant looked at copout

"Yes"

Lt Grammer looks at copout

"This is about the library isn't it?"

Affiant

"Yes it is about my legal copies that I need to have copies at the library."

Lt Grammer

"When is your library day?"

Affiant

"Wednesday"

Lt Grammer

"That is when you make your legal copies, Wednesday, every Wednesday."

Affiant

"Well I have been going on Monday, Tuesday, Wednesday, Thursday, and Friday to get my legal copies. You know, whenever I needed to make legal copies. When did they change all of this? I have seen no memo to this effect."

Lt Grammer (Yells)

"Who the fuck do you think you are?! We are suppose to jump because you want copies now?! That doesn't work like that around here!! Where in the hell do you come off insulting us like this, you son of a bitch!!!"

Affiant

"What do you mean, I am not trying to insult anybody."

Lt Grammer (Yells)

"Shut your God Damn mouth!!" (Points to copout)

"It's right here, PRIVATE CITIZEN!!"

"Who the fucking hell do you think you are to insult us like that?!!"

Affiant

"Under Arizona Public Safety Board, you have to have a badge number."

Lt Grammer (Yells)

"We are certified correctional officers, you son of a bitch!!"

"From now on to you we are correctional officers or C.O.s"

And don't forget that!!"

Affiant

"In Alaska I have a case going in court."

Lt Grammer (Before I could finish my sentence, Yelled)

"You ain't got fuck all going in Alaska!!"

"All you Alaskans got your case dismissed!!"

"We didn't ask you fucking Alaskans to come down here. But we're stuck with you, and you will address us as correctional officers or C.O.s from now on!!!"

31. At this point I thought Lt Grammer was going to beat me up because He was standing up yelling at me this whole time and sticking his finger in my face.

32. I was extremely fearful because I remember Lt Grammer from the yard incident that happened on August 30th, 1998, when I watched Lt Grammer beating Alaskan prisoners. There was also another CCA/CADC employee in the room while this exchange was taking place. I do not know this employee's name but he was standing behind and off to my left side throughout this whole incident. This is why I was in fear for my life at this time.

Affiant

"The same copout you got in your hand. Warden Sauberg has one, and Judy Gette, the Alaskan P.O. has one."

Lt Grammer (Looks at copout, then throws it back at me)

"It is verbally answered, get the fuck out!!"

33. I understand that a false statement in this affidavit will subject me to the penalties of perjury.

Ron Bloomstrand

Ron Bloomstrand

I declare under the penalty of perjury pursuant to Title 28, U.S.C. § 1746, and Alaska Statute 09.63.020, that the foregoing information contained herein this affidavit is true and correct to the best of my belief and knowledge, and that a Notary Public or other official empowered to administer oaths is unavailable.

Executed at Florence, Arizona on this 5th day of
December, 2000.

Ron Bloomstrand

Ron Bloomstrand

Alaska Prisoners
Complaint Summary

Alexia Bernie

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Edward Bruce

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Found labels indicating that they were fed meat, which was sold for test purposes only. Employment was terminated because of this.

Ernest Baker

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Ron Bloomstrand

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Believes he is being mistreated by the staff, also being denied his prisoner rights, complains about rotten food, and how the correctional officers treat him.

Eddie Barr

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Mitch Carlo

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Kevin Scott Charlie

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Andrew Dayton

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Jayson Dennis

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Complains about being served rotten uncooked food, and being allowed only two rolls of toilet paper per week.

Larry Frey

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Robert Flemming

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

William Howarth

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Joseph Placide

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Bobby John

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Complains about not getting enough to eat, breathing recirculated air, and not getting the correct medical treatment.

Milford Knight

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Also had two eagle feathers taken away that were used for religious purposes.

Adam Kochutin

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Ben Lozano

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Edward Nicholai

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

James Price

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. He was also diagnosed with psoriasis of the liver and needs to go back to go through preparation to get a liver transplant when his liver fails.

Harry Pavila

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Dean Painter

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

John Charles Richart

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Also complains about being attacked for no reason, and not receiving the proper medical treatment.

Richard Silas

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Max Sovalik

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Jonah Taleak

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Also complains that he has been discriminated by the medical staff, and has been served bad food.

Andrew Thane

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Alaskan Natives who didn't send a form

Joseph Hunt	Paul Ivanoff	Daniel Kiyuklook
Mathew Melton	Johnny Ningeok	Floyd Okpeaha
Hugh Tazruk	Alfred Tuckle	Hoover Adams
Whitlam Adams	James Ankivgak	Peter Ballot
Walter Sacceus	Paul Herbert	John Iyapana Jr.
Ryan Peetook	Pete Bernard	Dwayne Ekak
Harold Saker	Edward Smith	Peter Quick
Folger Andrew	Gregory Gross	Oliver Gregory
Raymond Smallwood	Bobby Lefte	Timothy Joseph
Ostlund William	Leo Pritchard	Alexie Salcar
Walter Fields	Joe Mark	Pete Zaukar
Charles Fawcett	Andrew Adams	Frederick Loon
Johnny Joseph	Kevin Slats	Clinton Williams
George Martin	Alec Ansoak	Charles Samuel
James Alkiugak	Frederick Johnson	Allen Downey
Robert Keelick	Bryan Joseph	Peter Moses
Robert Kaskatok	James Anderson	Johnny Waters
Wilson Downey		

398.1100
Call ~~XXXX~~

Thomas J Gilmartin
46677 Lake Street
Kenai, Alaska. 99611
907-776-5639

1/30/2002

Rep. Pete Kott,

Attached is a list of nine changes to our fisheries management that I believe would spur our small boat fleet with years or positive economic activity. These changes are needed now because a lot of our support industries are beginning to disappear.

Tom Gilmartin

Bill ID: HB 206

HB 206

HOUSE BILL NO.

"The federal government has delegated to the State the authority to manage all aspects of the scallop fishery. Except access in federal waters."

- 1.) Half the states entire scallop quota into 675,000 pounds for a Federal waters quota and 675,000 pounds for a State waters quota.
- 2.) End the moratorium that is due to expire in 2004 on vessels entering the States scallop fishery and leave the fishery open access.
This will help fisherman diversify and spur the small boat economy.
- 3.) Limit Federal waters vessels to two ten-foot dredges.
- 4.) Limit State waters vessels to one 10-foot dredge.
- 5.) Limit state waters vessels to six men on board.
- 6.) Amend 5 AAC 39.645 On vessels under 60 feet on board observers will be supplied by the state-funded observer program. **This because the State is receiving 5% tax on all scallops landed.**
- 7.) Fish & Game should instruct fisherman in biological data gathering. In place of all on board observers. **This would ease the budget on the state funded observer program and encourage fisherman to be professionals involved in managing the resource. Impose heavy fines or loss of permits if false data is supplied.**
- 8.) Encourage the development of our state waters catcher-seller vessels under 65ft. By encouraging at sea fresh freezing. This can be done, by extending the catcher seller processing tax exemption to vessels freezing on board. Right now vessels are discouraged from doing freezing because they have to have a fisheries business license, post a tax bond and file a tax return plus a bunch more hoops to jump through. **With the catcher seller tax exemption extended to direct market vessels the small boat economy would boom.**
- 9.) Take over management of 40% of all ground-fish, cod, pollack, sole, dog-shark, sharks, skates, etc. Open access for all these species on one card. State waters ground-fish card for jig, hand line, long line etc. As it is now, if a fisherman has a jig permit and goes out fishing today 01/29/02 he is only allowed to target pacific cod. All other species are at 10% by-catch only. Now we're talking about sole, flounder, pollock, skates & dog sharks just to name a few of the species. **This is not practical at all and has to be changed fishers risk life & limb to get out and should be allowed to retain what they catch.**

Call
1230
for

Rep Mordike

WORK DRAFT

WORK DRAFT

WORK DRAFT

needs to be adopted.

22-LS0426L
Utermohle
4/9/01

CS FOR HOUSE BILL NO. 206()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to
3 management of offshore fisheries, and to the definition of 'person' for purposes of the
4 commercial fisheries entry program; and providing for an effective date."

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

6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent participation requirements, minimum requirements for the nature and degree of
29 ownership interest that a permit holder must have in a vessel in order to receive a
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature
6 of the fishery, and the need to ensure the manageability of the fishery and conservation
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is subject to a moratorium on entry of new vessels under
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel used to establish eligibility for
31 a vessel entry permit is lost before the initial issuance of a vessel entry permit for the

1 vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

determine whether the additional vessel entry permits issued under this subsection are transferable or nontransferable.

Sec. 16.43.480. Transfer and expiration of vessel entry permits. (a) The commission may adopt regulations authorizing the transfer of a transferable vessel entry permit to an eligible transferee. The transferee of a vessel entry permit must have a legal ownership interest in the vessel identified on the vessel entry permit. The commission may establish by regulation the minimum requirements for the nature and degree of ownership interest that the transferee must have in the vessel.

(b) Except as provided under (c) of this section, a person or entity that received a transferable vessel entry permit upon the initial issuance of vessel entry permits for a fishery may not transfer the permit to another entity. For purposes of this subsection, a transfer to an entity includes a change in the entity to which the permit was issued. Except for a publicly held corporation, the addition of a new shareholder or partner to the entity, other than a trustee appointed by a court to act on behalf of a shareholder or partner who becomes incapacitated, constitutes a change in the entity. A transfer of a vessel entry permit in violation of this subsection suspends the permit by operation of law until the permit is transferred to a person or back to the original entity and the transfer is approved by the commission.

~~(b)~~ ~~(c)~~ Notwithstanding ~~(b)~~ of this section, the commission may authorize a transferable vessel entry permit for a fishery to be transferred by a person or entity to an entity if

(1) the entity to which the permit is to be transferred received a vessel entry permit for the fishery at the time of initial issuance of vessel entry permits for the fishery;

(2) the vessel entry permit is to be issued for a vessel for which the entity receiving the permit already holds a vessel entry permit for the fishery; and

(3) the transfer of the vessel entry permit is consistent with AS 16.43.520(b).

(d) The commission may adopt regulations authorizing the simultaneous transfer of a transferable vessel entry permit to an eligible transferee and the substitution of another vessel for the vessel identified on the permit under

1 AS 16.43.490.

2 (e) The commission may prohibit the involuntary transfer of a vessel entry
3 permit.

4 (f) The commission shall adopt regulations relating to the expiration of
5 nontransferable vessel entry permits.

6 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
7 regulations providing for the permanent or temporary substitution, after the initial
8 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
9 vessel entry permit. A permit holder ^{may} must have a legal ownership interest in the vessel
10 that is permanently substituted for the vessel identified on the permit. Upon the
11 approval of a permanent substitution of a vessel, the commission shall issue a new
12 vessel entry permit for the substituted vessel. The commission may require that the
13 permit holder have an ownership interest in a temporarily substituted vessel. The
14 commission may specify by regulation the nature and degree of ownership interest that
15 a permit holder must have in a substituted vessel. *Issue of leasing.*

16 (b) A substituted vessel and the operation of the substituted vessel are subject
17 to all terms and conditions attached to the vessel entry permit at the time that the
18 vessel permit is transferred from the original vessel to the substituted vessel.

19 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
20 or vessel entry permit is issued for one year and must be renewed annually.

21 (b) A vessel interim-use permit or vessel entry permit may not be renewed
22 until the fees for each preceding year during which the permit has not been renewed
23 are paid.

24 (c) A vessel entry permit issued to an entity may not be renewed if the permit
25 is suspended by operation of law under AS 16.43.480(b).

26 (d) Failure to renew a vessel entry permit for two consecutive years from the
27 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
28 by the commission for good cause. If an administrative closure of a fishery occurs for
29 an entire season, the commission may not count the season toward the two-year
30 period.

31 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees

*- HP!
overall
length
consistent w/
previous versions
define
Temporary
Subjective*

1 for the issuance and annual renewal of vessel interim-use permits and vessel entry
2 permits. Annual fees established under this subsection may not exceed \$2,500 and
3 shall reasonably reflect the rate of economic return for the fishery.

4 (b) The commission shall waive the payment of the annual fees for a vessel
5 interim-use permit or a vessel entry permit for a fishery in which there was an
6 administrative closure for the entire season.

7 (c) Subject to AS 37.10.050(a), the commission may establish fees for
8 processing applications for vessel interim-use permits and vessel entry permits, for
9 transfer of vessel entry permits, and for permanent and temporary substitution of
10 vessels.

11 (d) The commission may charge interest at a rate not to exceed the legal rate
12 of interest established in AS 45.45.010(a) on fees established under the section that are
13 more than 60 days overdue.

14 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
15 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
16 a vessel interim-use permit or vessel entry permit is required unless the appropriate
17 vessel permit has been issued for the vessel and is posted in a prominent location on
18 the vessel. A vessel entry permit holder, other than an entity or a person who received
19 the permit at the time of initial issuance of vessel entry permits for the fishery, shall be
20 physically present on the vessel while the vessel is engaged in the fishery for which
21 the vessel entry permit was issued.

22 (b) A person or entity may not hold more than one vessel entry permit for a
23 fishery unless

24 (1) the number of vessel entry permits held by the person or entity is
25 consistent with regulations of the commission regarding concentration of ownership of
26 vessel permits in the fishery; and

27 (2) either

28 (A) the person or entity qualified for each vessel entry permit at
29 the time of the initial issuance of vessel entry permits for the fishery; or

30 (B) the vessel entry permits are issued for a vessel for which
31 the person or entity already holds another vessel entry permit for that fishery.

1 (c) The operator of a vessel for which a vessel interim-use permit or vessel
2 entry permit has been issued shall comply with the terms of the vessel permit while the
3 vessel is operated in the fishery for which the permit is issued.

4 (d) A vessel interim-use permit and a vessel entry permit constitute a use
5 privilege that may be modified or revoked by order of the commission or by law
6 without compensation.

7 (e) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
8 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
9 16.05.520.

10 (f) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of
11 Fisheries or the Department of Fish and Game.

12 (g) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
13 release to the owner of a vessel information on the vessel's history of harvests in a
14 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
15 under AS 16.43.450 - 16.43.520.

16 * Sec. 3. AS 16.05.735 is amended to read:

17 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume
18 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
19 the state in the absence of a federal fishery management plan for the fishery
20 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
21 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
22 FISHERIES] in the United States exclusive economic zone.

23 * Sec. 4. AS 16.43.010(a) is amended to read:

24 (a) It is the purpose of this chapter to promote the conservation and the
25 sustained yield management of Alaska's fishery resource and the economic health and
26 stability of commercial fishing in Alaska by regulating and controlling entry of
27 participants and vessels into the commercial fisheries in the public interest and
28 without unjust discrimination.

29 * Sec. 5. AS 16.43.100(a) is amended to read:

30 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
31 (1) regulate entry into the commercial fisheries for all fishery resources

- 1 in the state;
- 2 (2) establish priorities for the application of the provisions of this
- 3 chapter to the various commercial fisheries of the state;
- 4 (3) establish administrative areas suitable for regulating and
- 5 controlling entry into the commercial fisheries;
- 6 (4) establish, for all types of gear, the maximum number of entry
- 7 permits for each administrative area;
- 8 (5) designate, when necessary to accomplish the purposes of this
- 9 chapter, particular species for which separate interim-use permits or entry permits will
- 10 be issued;
- 11 (6) establish qualifications for the issuance of entry permits;
- 12 (7) issue entry permits to qualified applicants;
- 13 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 14 and 16.43.225;
- 15 (9) establish, for all types of gear, the optimum number of entry
- 16 permits for each administrative area;
- 17 (10) administer the buy-back program provided for in AS 16.43.310
- 18 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 19 number of entry permits;
- 20 (11) provide for the transfer and reissuance of entry permits to
- 21 qualified transferees;
- 22 (12) provide for the transfer and reissuance of entry permits for
- 23 alternative types of legal gear, in a manner consistent with the purposes of this
- 24 chapter;
- 25 (13) administer the collection of the annual fees provided for in
- 26 AS 16.43.160;
- 27 (14) administer the issuance of commercial fishing vessel licenses
- 28 under AS 16.05.490;
- 29 (15) issue educational entry permits to applicants who qualify under
- 30 the provisions of AS 16.43.340 - 16.43.390;
- 31 (16) establish reasonable user fees for services;

1 (17) issue landing permits under AS 16.05.675 and regulations adopted
2 under that section;

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

6 (19) establish a moratorium on entry into commercial fisheries as
7 provided in AS 16.43.225; and

8 (20) administer the vessel permit system authorized for the Bering
9 Sea Korean hair crab fishery and for weathervane scallop fisheries under
10 AS 16.43.450 - 16.43.520.

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

12 (b) When the commission finds that a fishery, not designated as a distressed
13 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
14 reached levels of participation that require the limitation of entry under AS 16.43.140
15 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
16 establish the maximum number of entry permits for that fishery.

17 * Sec. 7. AS 16.43.240(c) is amended to read:

18 (c) When the commission finds that a fishery subject to a moratorium under
19 AS 16.43.225 has reached levels of participation that require the limitation of entry
20 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
21 commission shall establish the maximum number of entry permits for that fishery.

22 * Sec. 8. AS 16.43.960(a) is amended to read:

23 (a) The commission may revoke, suspend, or transfer all entry or interim-use
24 permits, vessel entry permits, or vessel interim-use permits held by a person or
25 entity who knowingly provides or assists in providing false information, or fails to
26 correct false information provided to the commission for the purpose of obtaining a
27 benefit for self or another, including the issuance, renewal, duplication, or transfer of
28 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
29 interim-use permit. The commission may suspend, as appropriate, that person's or
30 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
31 vessel interim-use permit for a period not to exceed three years, and may impose an

1 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION.
2 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
3 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
4 knowingly provide or assist in providing false information, or fail to correct false
5 information provided, to the commission for the purpose of obtaining a benefit.

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

7 (a) A person who violates a provision of this chapter or a regulation adopted
8 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
9 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
10 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
11 first conviction, and a fine of not more than \$10,000 for a second or third conviction.
12 Upon a first or second conviction under this subsection, the court may in its discretion
13 also order the commission to suspend the commercial fishing privileges of the person
14 or entity for a period of not more than three years and to revoke one or more or all
15 commercial fishing permits held by the person or entity. Upon a third or subsequent
16 conviction under this subsection, the person or entity is also subject to a loss of
17 commercial fishing privileges as provided under (i) of this section. This subsection
18 does not apply to violations of AS 16.43.140(a).

19 * Sec. 10. AS 16.43.970(b) is amended to read:

20 (b) A person or entity who knowingly makes a false statement to the
21 commission for the purpose of obtaining a benefit, including the issuance, renewal,
22 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
23 interim-use permit, or vessel entry permit, or a person who assists another by
24 knowingly making a false statement to the commission for the purpose of obtaining a
25 benefit for another, is guilty of the crime of unsworn falsification as set out in
26 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
27 commercial fishing privileges and revocation of commercial fishing permits under (i)
28 of this section.

29 * Sec. 11. AS 16.43.970(d) is amended to read:

30 (d) If a permit holder is charged by the state with violating a provision of this
31 chapter or a regulation adopted under this chapter, the holder may not transfer [,

1 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
2 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
3 final adjudication or dismissal of the charges.

4 * Sec. 12. AS 16.43.970(e) is amended to read:

5 (e) Notwithstanding any other provision of this section, an interim-use or entry
6 permit or transferable vessel entry permit may not be transferred while under
7 suspension, without the consent of the commission.

8 * Sec. 13. AS 16.43.970(f) is amended to read:

9 (f) A commercial fishing entry permit revoked under this section that is
10 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
11 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

12 * Sec. 14. AS 16.43.970(i) is amended to read:

13 (i) Upon the conviction of a person or entity for an offense described under
14 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
15 conviction. The notice provided by the court shall be accompanied by an order
16 suspending commercial fishing privileges and revoking commercial fishing permits
17 under (a) of this section, as appropriate. The commission shall, upon receipt of

18 (1) an order from the court under (a) of this section, suspend the
19 commercial fishing privileges of a person or entity for the period set by the court and
20 revoke commercial fishing permits held by the person or entity as directed by the
21 court;

22 (2) a notice from the court that a person or entity has been convicted
23 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
24 privileges of the person or entity for a period of three years from the date of
25 conviction and revoke all commercial fishing permits held by the person or entity;

26 (3) a notice from the court that a person or entity has been convicted
27 of a violation described under (b) of this section, suspend all commercial fishing
28 privileges of the person or entity for a period of three years from the date of
29 conviction and revoke all commercial fishing permits held by the person or entity;

30 (4) a notice from the court that a person has been convicted of a
31 violation described under (g)(1) of this section, suspend all commercial fishing

1 privileges of the person for a period of one year from the date of conviction;

2 (5) a notice from the court that a person has been convicted of a
3 violation described under (g)(2) of this section, suspend all commercial fishing
4 privileges of the person for a period of two years from the date of conviction;

5 (6) a notice from the court that a person has been convicted of a
6 violation described under (g)(3) of this section, suspend all commercial fishing
7 privileges of the person for a period of five years from the date of conviction.

8 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

9 (1) "commercial fishing permit" means an entry permit, [OR] an
10 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
11 under this chapter;

12 * Sec. 16. AS 16.43.980(a) is amended to read:

13 (a) The commission shall prepare an annual report and notify the legislature
14 that it is available. The report must [SHALL] include but not be limited to the
15 following:

16 (1) a progress report on the reduction of entry permits to optimum
17 levels;

18 (2) recommendations for additional legislation relating to the
19 regulation of entry of participants and vessels into Alaska commercial fisheries.

20 * Sec. 17. AS 16.43.990(5) is amended to read:

21 (5) "person" means a natural person; "person" [AND] does not
22 include a corporation, company, partnership, firm, association, organization, joint
23 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
24 person;

25 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

26 (10) "entity" means a corporation, company, partnership, firm,
27 association, organization, joint venture, trust, society, or other legal entity other than a
28 natural person.

29 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt

1 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds
2 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

3 * **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

4 * **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

ORIGINAL

HOUSE BILL NO. 206

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced: 3/22/01

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system, to
2 management of offshore fisheries, and to the definition of 'person' for purposes of the
3 commercial fisheries entry program; and providing for an effective date."

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **FINDINGS.** The legislature finds that

8 (1) the conventional commercial fisheries limited entry system, which limits
9 the entry of natural persons into a fishery, may not adequately protect the economic health
10 and stability of certain fisheries in this state;

11 (2) a system that limits the number of vessels that may engage in a fishery
12 may be necessary to regulate certain existing, developing, or future fisheries in order to
13 promote the conservation and sustained yield management of Alaska's fishery resource and
14 the economic health and stability of commercial fishing in this state;

1 (3) the existing moratorium on entry of new vessels into the Bering Sea
 2 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
 3 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
 4 June 30, 2004;

5 (4) the United States Department of Commerce has taken action to restrict
 6 access to groundfish, crab, and scallop fisheries in the waters of the United States exclusive
 7 economic zone adjacent to the state water of Alaska using a vessel-based limited entry
 8 system;

9 (5) a vessel-based limited entry system may be necessary to facilitate state
 10 management of fisheries that overlap with federally managed fisheries in the United States
 11 exclusive economic zone, especially for fisheries under a federal limited entry system; and

12 (6) a vessel-based limited entry system may be necessary to achieve
 13 compatible state and federal management and enforcement of fisheries.

14 * **Sec. 2.** AS 16.43 is amended by adding new sections to read:

15 **Article 6A. Vessel Permit System.**

16 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
 17 vessel permit system for a fishery under state management if the commission
 18 determines that

19 (1) the regulation of entry into the fishery is necessary to achieve the
 20 purposes of this chapter;

21 (2) a vessel permit system would achieve the purposes of this chapter;
 22 and

23 (3) limiting the number of participants in the fishery under
 24 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter.

25 (b) The commission may establish a vessel permit system for a fishery that
 26 occurs in the United States exclusive economic zone or both the United States
 27 exclusive economic zone and state waters if the conditions set out in (a)(1) and (2) of
 28 this section are satisfied and if regulating the number of vessels in the fishery would
 29 enable the state to gain or retain management of the fishery; in making a determination
 30 under this subsection, the commission shall consider relevant provisions of federal
 31 fishery management plans.

1 (c) For a fishery in which the federal government has delegated management
 2 authority in the United States exclusive economic zone to the state, the commission
 3 may, to the extent consistent with this chapter, adopt regulations to ensure that the
 4 vessel permit system is consistent with applicable federal laws.

5 (d) If the commission establishes a vessel permit system for a fishery that
 6 involves more than one fishery resource, type of gear, or administrative area, the
 7 commission may limit, as the commission determines appropriate, the fishery
 8 resources that may be harvested under the vessel permit, the types of gear that may be
 9 used under the vessel permit, or the areas where fishing may occur under the vessel
 10 permit. The commission shall adopt criteria, as appropriate, for determining

11 (1) how restrictions on fishery resources, types of gear, and areas
 12 fished are established for individual vessel interim-use permits and vessel entry
 13 permits; and

14 (2) how eligibility to take a particular fishery resource, to use a
 15 particular type of gear, or to fish in a particular area is established.

16 (e) The commission may, after consultation with the Department of Fish and
 17 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
 18 permit or a vessel entry permit if the commission finds that limitations on fishing
 19 capacity or effort are necessary to achieve the purposes of this chapter. The
 20 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
 21 effort of a vessel and for determining how restrictions on vessel fishing capacity or
 22 effort are established for individual vessel interim-use permits and vessel entry
 23 permits. The criteria may be based on past participation.

24 (f) The commission shall adopt regulations limiting the number of vessel
 25 permits that may be held by a permit holder or group of related permit holders if the
 26 commission finds that limiting the number of vessel permits that may be held by a
 27 permit holder or group of related permit holders is necessary to prevent the excessive
 28 concentration of ownership of vessel permits in a fishery.

29 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
 30 which the commission establishes a vessel permit system, the commission shall
 31 establish qualifications for vessel interim-use permits and vessel entry permits. The

1 qualifications may include a qualification date, eligibility period, recent participation
2 requirements, minimum requirements for the nature and degree of ownership interest
3 that a permit holder must have in a vessel in order to receive a vessel permit for the
4 vessel, and criteria for receiving transferable and nontransferable vessel entry permits.
5 In adopting qualifications for transferable and nontransferable vessel entry permits, the
6 commission shall consider

7 (1) information provided by the Department of Fish and Game,
8 participants in the fishery, owners of vessels and gear used in the fishery, and other
9 interested parties;

10 (2) the level of past participation and harvest in the fishery, the nature
11 of the fishery, and the need to ensure the manageability of the fishery and conservation
12 of the fishery resource.

13 (b) If the commission establishes a vessel permit system under AS 16.43.450 -
14 16.43.520 for a fishery that is subject to a moratorium on entry of new vessels under
15 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
16 eligibility criteria established for the moratorium into the eligibility criteria for vessel
17 permits issued under the vessel permit system.

18 (c) Pending the issuance of vessel entry permits for a fishery for which the
19 commission has established a vessel permit system, the commission shall issue a
20 vessel interim-use permit to the owner of each vessel that the commission finds is
21 potentially eligible to receive a vessel entry permit. A vessel interim-use permit is
22 renewable from year to year; however, a vessel interim-use permit expires at the end
23 of the period for which the permit was issued and may not be renewed after a final
24 determination by the commission that the vessel is or is not eligible for a vessel entry
25 permit.

26 (d) The commission shall issue vessel entry permits for a fishery, subject to
27 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
28 owner of each vessel that the commission finds is eligible to receive a vessel entry
29 permit for that fishery.

30 (e) The commission shall adopt regulations regarding

31 (1) the determination of which person or entity is eligible to receive a

1 vessel interim-use permit or a vessel entry permit for a vessel in the event of
2 competing claims to ownership of the vessel;

3 (2) the substitution of another vessel by the applicant for a vessel
4 interim-use permit or a vessel entry permit if the vessel used to establish eligibility for
5 a vessel entry permit is lost before the initial issuance of a vessel entry permit for the
6 vessel.

7 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
8 initial issuance of vessel entry permits for a fishery, the commission determines that a
9 long-term biological or economic change has occurred in the fishery, the commission,
10 in consultation with the Department of Fish and Game, shall establish the optimum
11 number range of vessel entry permits for the fishery.

12 (b) In determining the optimum number range of vessel entry permits, the
13 commission shall seek to

14 (1) facilitate sound management of the fishery;

15 (2) promote

16 (A) the economic health and stability of the fishery;

17 (B) broad access to the fishery;

18 (C) conservation of the resource;

19 (D) quality seafood products; and

20 (3) discourage waste of harvested fish.

21 (c) The commission may increase or decrease the optimum number range of
22 vessel entry permits for a fishery if the commission finds that an established long-term
23 change in the biological or economic condition of the fishery has occurred and that the
24 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
25 this section has substantially changed.

26 (d) If the optimum number range of vessel entry permits is less than the
27 number of outstanding vessel permits for the fishery, the commission may adopt
28 regulations to allow the voluntary consolidation of vessel entry permits by permit
29 holders, including entities. The commission may investigate procedures to
30 permanently reduce the number of vessel permits issued for a fishery to within the
31 optimum number range.

1 (e) If the optimum number range of vessel entry permits is greater than the
2 number of permits authorized for the fishery, the commission shall issue additional
3 vessel entry permits until the number of vessel entry permits is consistent with the
4 optimum number range for the fishery. The commission shall obtain fair market value
5 for new vessel entry permits issued under this subsection. The commission shall
6 determine whether the additional vessel entry permits issued under this subsection are
7 transferable or nontransferable.

8 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
9 commission may adopt regulations authorizing the transfer of a transferable vessel
10 entry permit to an eligible transferee. The transferee of a vessel entry permit must
11 have a legal ownership interest in the vessel identified on the vessel entry permit. The
12 commission may establish by regulation the minimum requirements for the nature and
13 degree of ownership interest that the transferee must have in the vessel.

14 (b) Except as provided under (c) of this section, a person or entity that
15 received a transferable vessel entry permit upon the initial issuance of vessel entry
16 permits for a fishery may not transfer the permit to another entity. For purposes of this
17 subsection, a transfer to an entity includes a change in the entity to which the permit
18 was issued. Except for a publicly held corporation, the addition of a new shareholder
19 or partner to the entity, other than a trustee appointed by a court to act on behalf of a
20 shareholder or partner who becomes incapacitated, constitutes a change in the entity.
21 A transfer of a vessel entry permit in violation of this subsection suspends the permit
22 by operation of law until the permit is transferred to a person or back to the original
23 entity and the transfer is approved by the commission.

24 (c) Notwithstanding (b) of this section, the commission may authorize a
25 transferable vessel entry permit for a fishery to be transferred by a person or entity to
26 an entity if

27 (1) the entity to which the permit is to be transferred received a vessel
28 entry permit for the fishery at the time of initial issuance of vessel entry permits for
29 the fishery;

30 (2) the vessel entry permit is to be issued for a vessel for which the
31 entity receiving the permit already holds a vessel entry permit for the fishery; and

1 (3) the transfer of the vessel entry permit is consistent with
2 AS 16.43.520(b).

3 (d) The commission may adopt regulations authorizing the simultaneous
4 transfer of a transferable vessel entry permit to an eligible transferee and the
5 substitution of another vessel for the vessel identified on the permit under
6 AS 16.43.490.

7 (e) The commission may prohibit the involuntary transfer of a vessel entry
8 permit.

9 (f) The commission shall adopt regulations relating to the expiration of
10 nontransferable vessel entry permits.

11 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
12 regulations providing for the permanent or temporary substitution, after the initial
13 issuance of vessel entry permits, of another vessel for the vessel that is identified on a
14 vessel entry permit. A permit holder must have a legal ownership interest in the vessel
15 that is permanently substituted for the vessel identified on the permit. Upon the
16 approval of a permanent substitution of a vessel, the commission shall issue a new
17 vessel entry permit for the substituted vessel. The commission may require that the
18 permit holder have an ownership interest in a temporarily substituted vessel. The
19 commission may specify by regulation the nature and degree of ownership interest that
20 a permit holder must have in a substitute vessel.

21 (b) A substituted vessel and the operation of the substituted vessel are subject
22 to all terms and conditions attached to the vessel entry permit at the time that the
23 vessel permit is transferred from the original vessel to the substituted vessel.

24 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit
25 or vessel entry permit is issued for one year and must be renewed annually.

26 (b) A vessel interim-use permit or vessel entry permit may not be renewed
27 until the fees for each preceding year during which the permit has not been renewed
28 are paid.

29 (c) A vessel entry permit issued to an entity may not be renewed if the permit
30 is suspended by operation of law under AS 16.43.480(b).

31 (d) Failure to renew a vessel entry permit for two consecutive years from the

1 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
2 by the commission for good cause. If an administrative closure of a fishery occurs for
3 an entire season, the commission may not count the season toward the two-year
4 period.

5 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees
6 for the issuance and annual renewal of vessel interim-use permits and vessel entry
7 permits. Annual fees established under this subsection may not exceed \$2,500 and
8 shall reasonably reflect the rate of economic return for the fishery.

9 (b) The commission shall waive the payment of the annual fees for a vessel
10 interim-use permit or a vessel entry permit for a fishery in which there was an
11 administrative closure for the entire season.

12 (c) Subject to AS 37.10.050(a), the commission may establish fees for
13 processing applications for vessel interim-use permits and vessel entry permits, for
14 transfer of vessel entry permits, and for permanent and temporary substitution of
15 vessels.

16 (d) The commission may charge interest at a rate not to exceed the legal rate
17 of interest established in AS 45.45.010(a) on fees established under the section that are
18 more than 60 days overdue.

19 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
20 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
21 a vessel interim-use permit or vessel entry permit is required unless the appropriate
22 vessel permit has been issued for the vessel and is posted in a prominent location on
23 the vessel. A vessel entry permit holder, other than an entity or a person who received
24 the permit at the time of initial issuance of vessel entry permits for the fishery, shall be
25 physically present on the vessel while the vessel is engaged in the fishery for which
26 the vessel entry permit was issued.

27 (b) A person or entity may not hold more than one vessel entry permit for a
28 fishery unless

29 (1) the number of vessel entry permits held by the person or entity is
30 consistent with regulations of the commission regarding concentration of ownership of
31 vessel permits in the fishery; and

1 (2) either

2 (A) the person or entity qualified for each vessel entry permit at
3 the time of the initial issuance of vessel entry permits for the fishery; or

4 (B) the vessel entry permits are issued for a vessel for which
5 the person or entity already holds another vessel entry permit for that fishery.

6 (c) The operator of a vessel for which a vessel interim-use permit or vessel
7 entry permit has been issued shall comply with the terms of the vessel permit while the
8 vessel is operated in the fishery for which the permit is issued.

9 (d) A vessel interim-use permit and a vessel entry permit constitute a use
10 privilege that may be modified or revoked by order of the commission or by law
11 without compensation.

12 (e) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
13 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
14 16.05.520.

15 (f) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of
16 Fisheries or the Department of Fish and Game.

17 (g) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
18 release to the owner of a vessel information on the vessel's history of harvests in a
19 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
20 under AS 16.43.450 - 16.43.520.

21 * Sec. 3. AS 16.05.735 is amended to read:

22 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume
23 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
24 the state in the absence of a federal fishery management plan for the fishery
25 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
26 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
27 FISHERIES] in the United States exclusive economic zone. 3-200 miles

28 * Sec. 4. AS 16.43.010(a) is amended to read:

29 (a) It is the purpose of this chapter to promote the conservation and the
30 sustained yield management of Alaska's fishery resource and the economic health and
31 stability of commercial fishing in Alaska by regulating and controlling entry of

1 participants and vessels into the commercial fisheries in the public interest and
2 without unjust discrimination.

3 * Sec. 5. AS 16.43.100(a) is amended to read:

4 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
5 (1) regulate entry into the commercial fisheries for all fishery resources
6 in the state;

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

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

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

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

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

17 (7) issue entry permits to qualified applicants;

18 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
19 and 16.43.225;

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

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

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

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

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

1 (14) administer the issuance of commercial fishing vessel licenses
2 under AS 16.05.490;

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

5 (16) establish reasonable user fees for services;

6 (17) issue landing permits under AS 16.05.675 and regulations adopted
7 under that section;

8 (18) establish and collect annual fees for the issuance of landing
9 permits that reasonably reflect the costs incurred in the administration and
10 enforcement of provisions of law related to landing permits; [AND]

11 (19) establish a moratorium on entry into commercial fisheries as
12 provided in AS 16.43.225; and

13 (20) administer the vessel permit system authorized under
14 AS 16.43.450 - 16.43.520.

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

16 (b) When the commission finds that a fishery, not designated as a distressed
17 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
18 reached levels of participation that require the limitation of entry under AS 16.43.140
19 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
20 establish the maximum number of entry permits for that fishery.

21 * Sec. 7. AS 16.43.240(c) is amended to read:

22 (c) When the commission finds that a fishery subject to a moratorium under
23 AS 16.43.225 has reached levels of participation that require the limitation of entry
24 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
25 commission shall establish the maximum number of entry permits for that fishery.

26 * Sec. 8. AS 16.43.960(a) is amended to read:

27 (a) The commission may revoke, suspend, or transfer all entry or interim-use
28 permits, vessel entry permits, or vessel interim-use permits held by a person or
29 entity who knowingly provides or assists in providing false information, or fails to
30 correct false information provided to the commission for the purpose of obtaining a
31 benefit for self or another, including the issuance, renewal, duplication, or transfer of

1 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
 2 interim-use permit. The commission may suspend, as appropriate, that person's or
 3 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
 4 vessel interim-use permit for a period not to exceed three years, and may impose an
 5 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION
 6 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
 7 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
 8 knowingly provide or assist in providing false information, or fail to correct false
 9 information provided, to the commission for the purpose of obtaining a benefit.

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

11 (a) A person who violates a provision of this chapter or a regulation adopted
 12 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
 13 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
 14 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
 15 first conviction, and a fine of not more than \$10,000 for a second or third conviction.
 16 Upon a first or second conviction under this subsection, the court may in its discretion
 17 also order the commission to suspend the commercial fishing privileges of the person
 18 or entity for a period of not more than three years and to revoke one or more or all
 19 commercial fishing permits held by the person or entity. Upon a third or subsequent
 20 conviction under this subsection, the person or entity is also subject to a loss of
 21 commercial fishing privileges as provided under (i) of this section. This subsection
 22 does not apply to violations of AS 16.43.140(a).

23 * **Sec. 10.** AS 16.43.970(b) is amended to read:

24 (b) A person or entity who knowingly makes a false statement to the
 25 commission for the purpose of obtaining a benefit, including the issuance, renewal,
 26 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
 27 interim-use permit, or vessel entry permit, or a person who assists another by
 28 knowingly making a false statement to the commission for the purpose of obtaining a
 29 benefit for another, is guilty of the crime of unsworn falsification as set out in
 30 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
 31 commercial fishing privileges and revocation of commercial fishing permits under (i)

1 of this section.

2 * **Sec. 11.** AS 16.43.970(d) is amended to read:

3 (d) If a permit holder is charged by the state with violating a provision of this
4 chapter or a regulation adopted under this chapter, the holder may not transfer [,
5 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
6 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
7 final adjudication or dismissal of the charges.

8 * **Sec. 12.** AS 16.43.970(e) is amended to read:

9 (e) Notwithstanding any other provision of this section, an interim-use or entry
10 permit or transferable vessel entry permit may not be transferred while under
11 suspension, without the consent of the commission.

12 * **Sec. 13.** AS 16.43.970(f) is amended to read:

13 (f) A commercial fishing entry permit revoked under this section that is
14 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
15 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

16 * **Sec. 14.** AS 16.43.970(i) is amended to read:

17 (i) Upon the conviction of a person or entity for an offense described under
18 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
19 conviction. The notice provided by the court shall be accompanied by an order
20 suspending commercial fishing privileges and revoking commercial fishing permits
21 under (a) of this section, as appropriate. The commission shall, upon receipt of

22 (1) an order from the court under (a) of this section, suspend the
23 commercial fishing privileges of a person or entity for the period set by the court and
24 revoke commercial fishing permits held by the person or entity as directed by the
25 court;

26 (2) a notice from the court that a person or entity has been convicted
27 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
28 privileges of the person or entity for a period of three years from the date of
29 conviction and revoke all commercial fishing permits held by the person or entity;

30 (3) a notice from the court that a person or entity has been convicted
31 of a violation described under (b) of this section, suspend all commercial fishing

1 privileges of the person or entity for a period of three years from the date of
 2 conviction and revoke all commercial fishing permits held by the person or entity;

3 (4) a notice from the court that a person has been convicted of a
 4 violation described under (g)(1) of this section, suspend all commercial fishing
 5 privileges of the person for a period of one year from the date of conviction;

6 (5) a notice from the court that a person has been convicted of a
 7 violation described under (g)(2) of this section, suspend all commercial fishing
 8 privileges of the person for a period of two years from the date of conviction;

9 (6) a notice from the court that a person has been convicted of a
 10 violation described under (g)(3) of this section, suspend all commercial fishing
 11 privileges of the person for a period of five years from the date of conviction.

12 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

13 (1) "commercial fishing permit" means an entry permit, [OR] an
 14 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
 15 under this chapter;

16 * Sec. 16. AS 16.43.980(a) is amended to read:

17 (a) The commission shall prepare an annual report and notify the legislature
 18 that it is available. The report must [SHALL] include but not be limited to the
 19 following:

20 (1) a progress report on the reduction of entry permits to optimum
 21 levels;

22 (2) recommendations for additional legislation relating to the
 23 regulation of entry of participants and vessels into Alaska commercial fisheries.

24 * Sec. 17. AS 16.43.990(5) is amended to read:

25 (5) "person" means a natural person; "person" [AND] does not
 26 include a corporation, company, partnership, firm, association, organization, joint
 27 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
 28 person;

29 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

30 (10) "entity" means a corporation, company, partnership, firm,
 31 association, organization, joint venture, trust, society, or other legal entity other than a

1 natural person.

2 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt
5 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds
6 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

7 * **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

Questions for Mary from CFC: HB206

In the original limited entry program that involved Salmon fisheries:

- How many permits were originally issued to villagers?
- How many are still held by villagers?
- How will the transferability of these limited entry permits be different from that system
- I would appreciate hearing what the annual anticipated catch value per vessel will be, and I would like to know what the remuneration to the state will be for the use of that resource beyond a nominal permit fee.
- As a state we expect fair compensation for the use of our resources in other areas (oil and gas); therefore it seems to me that we should expect fair compensation for the use of our fisheries resources. Furthermore, if the vessel permits we are creating with this legislation are going to be transferable, then the state should receive a fair price for those permits upon their initial issuance.

Aenn

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CS FOR HOUSE BILL NO. 206()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to
3 management of offshore fisheries, and to the definition of 'person' for purposes of the
4 commercial fisheries entry program; and providing for an effective date."

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **FINDINGS.** The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits
10 the entry of natural persons into a fishery, may not adequately protect the economic health
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery
13 may be necessary to regulate certain fisheries in order to promote the conservation and
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state
7 management of fisheries that overlap with federally managed fisheries in the United States
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve
10 compatible state and federal management and enforcement of fisheries.

11 * **Sec. 2.** AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent
29 with this chapter, adopt regulations to ensure that the vessel permit system is
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the
2 commission may limit, as the commission determines appropriate, the fishery
3 resources that may be harvested under the vessel permit, the types of gear that may be
4 used under the vessel permit, or the areas where fishing may occur under the vessel
5 permit. The commission shall adopt criteria, as appropriate, for determining

6 (1) how restrictions on fishery resources, types of gear, and areas
7 fished are established for individual vessel interim-use permits and vessel entry
8 permits; and

9 (2) how eligibility to take a particular fishery resource, to use a
10 particular type of gear, or to fish in a particular area is established.

11 (d) The commission may, after consultation with the Department of Fish and
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use
13 permit or a vessel entry permit if the commission finds that limitations on fishing
14 capacity or effort are necessary to achieve the purposes of this chapter. The
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or
17 effort are established for individual vessel interim-use permits and vessel entry
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel
20 permits that may be held by a permit holder or group of related permit holders if the
21 commission finds that limiting the number of vessel permits that may be held by a
22 permit holder or group of related permit holders is necessary to prevent the excessive
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in
25 which the commission establishes a vessel permit system under AS 16.43.450, the
26 commission shall establish qualifications for vessel interim-use permits and vessel
27 entry permits. The qualifications may include a qualification date, eligibility period,
28 recent participation requirements, minimum requirements for the nature and degree of
29 ownership interest that a permit holder must have in a vessel in order to receive a
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,
3 participants in the fishery, owners of vessels and gear used in the fishery, and other
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature
6 of the fishery, and the need to ensure the manageability of the fishery and conservation
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450
9 for a fishery that is subject to a moratorium on entry of new vessels under
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the
14 commission has established a vessel permit system under AS 16.43.450, the
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel
17 interim-use permit is renewable from year to year; however, a vessel interim-use
18 permit expires at the end of the period for which the permit was issued and may not be
19 renewed after a final determination by the commission that the vessel is or is not
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the
23 owner of each vessel that the commission finds is eligible to receive a vessel entry
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel
30 interim-use permit or a vessel entry permit if the vessel used to establish eligibility for
31 a vessel entry permit is lost before the initial issuance of a vessel entry permit for the

1 vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the
3 initial issuance of vessel entry permits for a fishery, the commission determines that a
4 long-term biological or economic change has occurred in the fishery, the commission,
5 in consultation with the Department of Fish and Game, shall establish the optimum
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the
8 commission shall seek to

- 9 (1) facilitate sound management of the fishery;
- 10 (2) promote
 - 11 (A) the economic health and stability of the fishery;
 - 12 (B) broad access to the fishery;
 - 13 (C) conservation of the fish resources taken in the fishery;
 - 14 (D) quality seafood products; and
- 15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of
17 vessel entry permits for a fishery if the commission finds that an established long-term
18 change in the biological or economic condition of the fishery has occurred and that the
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the
22 number of outstanding vessel permits for the fishery, the commission may adopt
23 regulations to allow the voluntary consolidation of vessel entry permits by permit
24 holders, including entities. The commission may investigate procedures to
25 permanently reduce the number of vessel permits issued for a fishery to within the
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the
28 number of permits authorized for the fishery, the commission shall issue additional
29 vessel entry permits until the number of vessel entry permits is consistent with the
30 optimum number range for the fishery. The commission shall obtain fair market value
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The
4 commission may adopt regulations authorizing the transfer of a transferable vessel
5 entry permit to an eligible transferee. The transferee of a vessel entry permit must
6 have a legal ownership interest in the vessel identified on the vessel entry permit. The
7 commission may establish by regulation the minimum requirements for the nature and
8 degree of ownership interest that the transferee must have in the vessel.

9 (b) Except as provided under (c) of this section, a person or entity that
10 received a transferable vessel entry permit upon the initial issuance of vessel entry
11 permits for a fishery may not transfer the permit to another entity. For purposes of this
12 subsection, a transfer to an entity includes a change in the entity to which the permit
13 was issued. Except for a publicly held corporation, the addition of a new shareholder
14 or partner to the entity, other than a trustee appointed by a court to act on behalf of a
15 shareholder or partner who becomes incapacitated, constitutes a change in the entity.
16 A transfer of a vessel entry permit in violation of this subsection suspends the permit
17 by operation of law until the permit is transferred to a person or back to the original
18 entity and the transfer is approved by the commission.

19 (c) Notwithstanding (b) of this section, the commission may authorize a
20 transferable vessel entry permit for a fishery to be transferred by a person or entity to
21 an entity if

22 (1) the entity to which the permit is to be transferred received a vessel
23 entry permit for the fishery at the time of initial issuance of vessel entry permits for
24 the fishery;

25 (2) the vessel entry permit is to be issued for a vessel for which the
26 entity receiving the permit already holds a vessel entry permit for the fishery; and

27 (3) the transfer of the vessel entry permit is consistent with
28 AS 16.43.520(b).

29 (d) The commission may adopt regulations authorizing the simultaneous
30 transfer of a transferable vessel entry permit to an eligible transferee and the
31 substitution of another vessel for the vessel identified on the permit under

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1 AS 16.43.490.

2 (e) The commission may prohibit the involuntary transfer of a vessel entry
3 permit.

4 (f) The commission shall adopt regulations relating to the expiration of
5 nontransferable vessel entry permits. *- could apply to 2nd generation*

6 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
7 regulations providing for the permanent or temporary substitution, after the initial
8 issuance of vessel entry permits, of another vessel for the vessel that is identified on a

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9 vessel entry permit. ~~A permit holder must have a legal ownership interest in the vessel~~

10 that is ~~permanently~~ substituted for the vessel identified on the permit. Upon the

11 approval of a permanent substitution of a vessel, the commission shall issue a new

12 vessel entry permit for the substituted vessel. The commission ~~may~~ require that the

13 permit holder have an ownership interest in a ~~temporarily~~ substituted vessel. The

14 commission may specify by regulation the nature and degree of ownership interest that

15 a permit holder must have in a substituted vessel.

16 (b) A substituted vessel and the operation of the substituted vessel are subject

17 to all terms and conditions attached to the vessel entry permit at the time that the

18 vessel permit is transferred from the original vessel to the substituted vessel.

19 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit

20 or vessel entry permit is issued for one year and must be renewed annually.

21 (b) A vessel interim-use permit or vessel entry permit may not be renewed

22 until the fees for each preceding year during which the permit has not been renewed

23 are paid.

24 (c) A vessel entry permit issued to an entity may not be renewed if the permit

25 is suspended by operation of law under AS 16.43.480(h).

26 (d) Failure to renew a vessel entry permit for two consecutive years from the

27 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived

28 by the commission for good cause. If an administrative closure of a fishery occurs for

29 an entire season, the commission may not count the season toward the two-year

30 period.

31 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees

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1 AS 16.43.490.

2 (e) The commission may prohibit the involuntary transfer of a vessel entry
3 permit.

4 (f) The commission shall adopt regulations relating to the expiration of
5 nontransferable vessel entry permits. *- could apply to 2nd generation*

6 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt
7 regulations providing for the permanent or temporary substitution, after the initial
8 issuance of vessel entry permits, of another vessel for the vessel that is identified on a

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a vessel*

9 vessel entry permit. A permit holder must have a legal ownership interest in the vessel
10 that is ~~permanently~~ substituted for the vessel identified on the permit. Upon the

11 approval of a permanent substitution of a vessel, the commission shall issue a new
12 vessel entry permit for the substituted vessel. The commission may require that the

13 permit holder have an ownership interest in a ~~temporarily~~ substituted vessel. The
14 commission may specify by regulation the nature and degree of ownership interest that

15 a

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24 if the permit

25 is suspended by operation of law under AS 16.43.480(b).

26 (d) Failure to renew a vessel entry permit for two consecutive years from the
27 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived
28 by the commission for good cause. If an administrative closure of a fishery occurs for
29 an entire season, the commission may not count the season toward the two-year
30 period.

31 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees

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Because it takes
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breaks down mid season
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1 for the issuance and annual renewal of vessel interim-use permits and vessel entry
2 permits. Annual fees established under this subsection may not exceed \$2,500 and
3 shall reasonably reflect the rate of economic return for the fishery.

4 (b) The commission shall waive the payment of the annual fees for a vessel
5 interim-use permit or a vessel entry permit for a fishery in which there was an
6 administrative closure for the entire season.

7 (c) Subject to AS 37.10.050(a), the commission may establish fees for
8 processing applications for vessel interim-use permits and vessel entry permits, for
9 transfer of vessel entry permits, and for permanent and temporary substitution of
10 vessels.

11 (d) The commission may charge interest at a rate not to exceed the legal rate
12 of interest established in AS 45.45.010(a) on fees established under the section that are
13 more than 60 days overdue.

14 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity
15 may not operate a vessel or use a vessel to take fish in a commercial fishery for which
16 a vessel interim-use permit or vessel entry permit is required unless the appropriate
17 vessel permit has been issued for the vessel and is posted in a prominent location on
18 the vessel. A vessel entry permit holder, other than an entity or a person who received
19 the permit at the time of initial issuance of vessel entry permits for the fishery, shall be
20 physically present on the vessel while the vessel is engaged in the fishery for which
21 the vessel entry permit was issued.

22 (b) A person or entity may not hold more than one vessel entry permit for a
23 fishery unless

24 (1) the number of vessel entry permits held by the person or entity is
25 consistent with regulations of the commission regarding concentration of ownership of
26 vessel permits in the fishery; and

27 (2) either

28 (A) the person or entity qualified for each vessel entry permit at
29 the time of the initial issuance of vessel entry permits for the fishery; or

30 (B) the vessel entry permits are issued for a vessel for which
31 the person or entity already holds another vessel entry permit for that fishery.

1 (c) The operator of a vessel for which a vessel interim-use permit or vessel
2 entry permit has been issued shall comply with the terms of the vessel permit while the
3 vessel is operated in the fishery for which the permit is issued.

4 (d) A vessel interim-use permit and a vessel entry permit constitute a use
5 privilege that may be modified or revoked by order of the commission or by law
6 without compensation.

7 (e) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use
8 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
9 16.05.520.

10 (f) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of
11 Fisheries or the Department of Fish and Game.

12 (g) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
13 release to the owner of a vessel information on the vessel's history of harvests in a
14 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit
15 under AS 16.43.450 - 16.43.520.

16 * Sec. 3. AS 16.05.735 is amended to read:

17 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume
18 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to
19 the state in the absence of a federal fishery management plan for the fishery
20 [SCALLOPS] or in the event that a federal fishery management plan for the fishery
21 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP
22 FISHERIES] in the United States exclusive economic zone.

23 * Sec. 4. AS 16.43.010(a) is amended to read:

24 (a) It is the purpose of this chapter to promote the conservation and the
25 sustained yield management of Alaska's fishery resource and the economic health and
26 stability of commercial fishing in Alaska by regulating and controlling entry of
27 participants and vessels into the commercial fisheries in the public interest and
28 without unjust discrimination.

29 * Sec. 5. AS 16.43.100(a) is amended to read:

30 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
31 (1) regulate entry into the commercial fisheries for all fishery resources

1 in the state;

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

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

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

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

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

12 (7) issue entry permits to qualified applicants;

13 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
14 and 16.43.225;

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

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

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

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

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

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

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

31 (16) establish reasonable user fees for services;

1 (17) issue landing permits under AS 16.05.675 and regulations adopted
2 under that section;

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

6 (19) establish a moratorium on entry into commercial fisheries as
7 provided in AS 16.43.225; and

8 (20) administer the vessel permit system authorized for the Bering
9 Sea Korean hair crab fishery and for weathervane scallop fisheries under
10 AS 16.43.450 - 16.43.520.

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

12 (b) When the commission finds that a fishery, not designated as a distressed
13 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has
14 reached levels of participation that require the limitation of entry under AS 16.43.140
15 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall
16 establish the maximum number of entry permits for that fishery.

17 * Sec. 7. AS 16.43.240(c) is amended to read:

18 (c) When the commission finds that a fishery subject to a moratorium under
19 AS 16.43.225 has reached levels of participation that require the limitation of entry
20 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the
21 commission shall establish the maximum number of entry permits for that fishery.

22 * Sec. 8. AS 16.43.960(a) is amended to read:

23 (a) The commission may revoke, suspend, or transfer all entry or interim-use
24 permits, vessel entry permits, or vessel interim-use permits held by a person or
25 entity who knowingly provides or assists in providing false information, or fails to
26 correct false information provided to the commission for the purpose of obtaining a
27 benefit for self or another, including the issuance, renewal, duplication, or transfer of
28 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel
29 interim-use permit. The commission may suspend, as appropriate, that person's or
30 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or
31 vessel interim-use permit for a period not to exceed three years, and may impose an

1 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION
2 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN
3 \$5,000 ON AN] entity whose officers, employees, representatives, or agents
4 knowingly provide or assist in providing false information, or fail to correct false
5 information provided, to the commission for the purpose of obtaining a benefit.

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

7 (a) A person who violates a provision of this chapter or a regulation adopted
8 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520
9 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty
10 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a
11 first conviction, and a fine of not more than \$10,000 for a second or third conviction.
12 Upon a first or second conviction under this subsection, the court may in its discretion
13 also order the commission to suspend the commercial fishing privileges of the person
14 or entity for a period of not more than three years and to revoke one or more or all
15 commercial fishing permits held by the person or entity. Upon a third or subsequent
16 conviction under this subsection, the person or entity is also subject to a loss of
17 commercial fishing privileges as provided under (i) of this section. This subsection
18 does not apply to violations of AS 16.43.140(a).

19 * Sec. 10. AS 16.43.970(b) is amended to read:

20 (b) A person or entity who knowingly makes a false statement to the
21 commission for the purpose of obtaining a benefit, including the issuance, renewal,
22 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel
23 interim-use permit, or vessel entry permit, or a person who assists another by
24 knowingly making a false statement to the commission for the purpose of obtaining a
25 benefit for another, is guilty of the crime of unsworn falsification as set out in
26 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of
27 commercial fishing privileges and revocation of commercial fishing permits under (i)
28 of this section.

29 * Sec. 11. AS 16.43.970(d) is amended to read:

30 (d) If a permit holder is charged by the state with violating a provision of this
31 chapter or a regulation adopted under this chapter, the holder may not transfer [,

1 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any
2 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the
3 final adjudication or dismissal of the charges.

4 * Sec. 12. AS 16.43.970(e) is amended to read:

5 (e) Notwithstanding any other provision of this section, an interim-use or entry
6 permit or transferable vessel entry permit may not be transferred while under
7 suspension, without the consent of the commission.

8 * Sec. 13. AS 16.43.970(f) is amended to read:

9 (f) A commercial fishing entry permit revoked under this section that is
10 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231
11 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

12 * Sec. 14. AS 16.43.970(i) is amended to read:

13 (i) Upon the conviction of a person or entity for an offense described under
14 (a), (b), or (g) of this section, the court shall immediately notify the commission of the
15 conviction. The notice provided by the court shall be accompanied by an order
16 suspending commercial fishing privileges and revoking commercial fishing permits
17 under (a) of this section, as appropriate. The commission shall, upon receipt of

18 (1) an order from the court under (a) of this section, suspend the
19 commercial fishing privileges of a person or entity for the period set by the court and
20 revoke commercial fishing permits held by the person or entity as directed by the
21 court;

22 (2) a notice from the court that a person or entity has been convicted
23 of a third or subsequent violation of (a) of this section, suspend all commercial fishing
24 privileges of the person or entity for a period of three years from the date of
25 conviction and revoke all commercial fishing permits held by the person or entity;

26 (3) a notice from the court that a person or entity has been convicted
27 of a violation described under (b) of this section, suspend all commercial fishing
28 privileges of the person or entity for a period of three years from the date of
29 conviction and revoke all commercial fishing permits held by the person or entity;

30 (4) a notice from the court that a person has been convicted of a
31 violation described under (g)(1) of this section, suspend all commercial fishing

1 privileges of the person for a period of one year from the date of conviction;

2 (5) a notice from the court that a person has been convicted of a
3 violation described under (g)(2) of this section, suspend all commercial fishing
4 privileges of the person for a period of two years from the date of conviction;

5 (6) a notice from the court that a person has been convicted of a
6 violation described under (g)(3) of this section, suspend all commercial fishing
7 privileges of the person for a period of five years from the date of conviction.

8 * Sec. 15. AS 16.43.970(j)(1) is amended to read:

9 (1) "commercial fishing permit" means an entry permit, [OR] an
10 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued
11 under this chapter;

12 * Sec. 16. AS 16.43.980(a) is amended to read:

13 (a) The commission shall prepare an annual report and notify the legislature
14 that it is available. The report must [SHALL] include but not be limited to the
15 following:

16 (1) a progress report on the reduction of entry permits to optimum
17 levels;

18 (2) recommendations for additional legislation relating to the
19 regulation of entry of participants and vessels into Alaska commercial fisheries.

20 * Sec. 17. AS 16.43.990(5) is amended to read:

21 (5) "person" means a natural person; "person" [AND] does not
22 include a corporation, company, partnership, firm, association, organization, joint
23 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural
24 person;

25 * Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

26 (10) "entity" means a corporation, company, partnership, firm,
27 association, organization, joint venture, trust, society, or other legal entity other than a
28 natural person.

29 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt

1st degree only @ initial issuance

cannot be transferred to a 3 entity - when entities sell they have to sell to a person

1 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds
2 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

3 * **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

4 * **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

What kind of fishing boat is that?

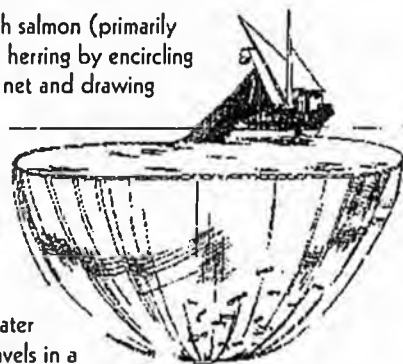
— Purse Seiner —

Purse seiners catch salmon (primarily pink salmon) and herring by encircling them with a long net and drawing (pursing) the bottom closed to capture the fish. The net is first stacked on the stern of the boat and then payed into the water

while the boat travels in a large circle around the fish. The far end of the net is attached to a "power skiff," which helps the operation by holding the net while the seiner completes the circle. The top of the net stays on the surface of the water because of its "float line" that runs through thousands of colorful floats, and the bottom of the net falls vertically because of its weighted "lead line." As a result, the net hangs like a curtain around the school of fish. The vessel crew then purses its bottom with a "purse line." The lines, and thus the net, are retrieved through a hydraulic power block (winch). Once most of the net has been retrieved, with the remainder of it lying in a "bag" alongside the vessel, the fish are dipped from the bag and into the vessel's hold. For large catches of herring, a buying vessel or "tender" comes alongside the fishing vessel and lowers the end of a fish pump into the bagged purse seine. The herring are then pumped aboard the tender and into its hold without ever going aboard the seiner.

Sometimes referred to as "limit seiners," purse seiners are sleek, cabin-forward vessels that are limited by Alaska law to 58' in order to more precisely manage their fishing effort. They are recognized by their long, clean decks, the boom with its power block, the net stacked on the back, and the power skiff that is often seen riding "piggyback" aboard the vessel's stern while it is traveling. When fishing, of course, the circle of floats on the surface of the water, and the power skiff assisting with the operation, are sure giveaways.

Seine-caught salmon are delivered "in-the-round" (whole) to buying stations and canneries where they end up as canned and frozen products. Herring are delivered to processing plants



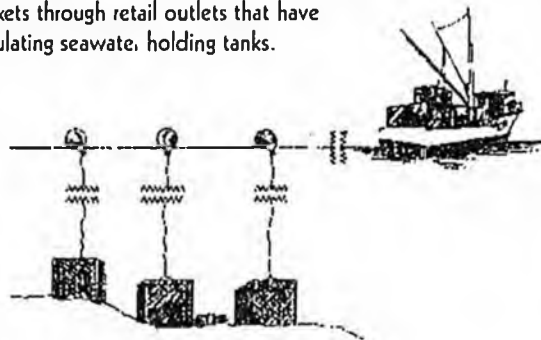
where they are either stripped of their roe (eggs), or packaged as bait for other commercial fisheries, e.g., the longline fisheries and the crab fisheries. Salted herring roe, called "kazunoko," is shipped to Japan where it is a high-priced delicacy.

— Crabber —

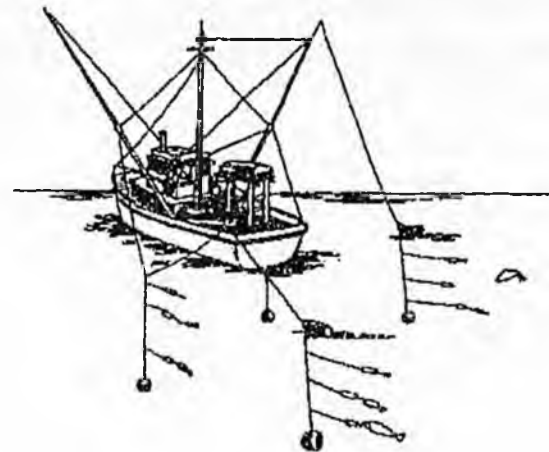
Crabbers target Dungeness, king, and Tanner crabs using twine or wire-meshed steel pots (traps). Baited with herring or other fresh bait, the pots are left to "soak" for several days. A line extends from each pot to a surface buoy that marks its location. There are several configurations for the pots, though in general, the smaller round pots are fished for Dungeness in shallow bays and estuaries, and the large, heavy, rectangular pots are fished in waters deeper than 100' for king and Tanner crab. A power winch is used to retrieve the pots. Once aboard, a pot is opened and the catch sorted. Females and undersized males are discarded (alive) over the side and legal-sized males are retained in aerated seawater tanks.

Crab boats come in a variety of shapes and sizes, from aluminum skiffs with outboard motors that fish the inside waters for Dungeness, to seagoing vessels of 100' or more that ply the Bering Sea and the Gulf of Alaska for king crab. Unless one happens to see a crabber headed for the fishing grounds with its decks stacked with pots, identification of a vessel as a crabber might be difficult for the casual observer.

Crabs are delivered live to shore stations where they are cooked and then either canned or sold as a fresh or frozen product. A small number are sold live in local markets through retail outlets that have circulating seawater holding tanks.



— Troller —



Troll vessels catch salmon, principally chinook, coho, and pink salmon, by "trolling" bait or lures through feeding concentrations of fish. The word "troll" comes from a medieval German word, "trollen," and refers to the revolving motion of the bait or lures used in this type of fishing.

Typically, four main wire lines are fished, each of which has a large (40 lb), lead sinker ("cannon ball") on its terminal end, and 8-12 nylon leaders spaced out along its length, each of which ends in either a lure or baited hook. To retrieve hooked fish, the main lines are wound about small, onboard spools via hand crank (hand trollers) or with hydraulic power (power trollers), and the fish are gaffed when alongside the vessel. The leaders are then rebaited and let back down to the desired depth(s).

Troll vessels come in a variety of sizes and configurations, ranging from small, hand troll skiffs to large, ocean-going power troll vessels of 50' or more in length. Troll salmon fishermen operate throughout Southeast Alaska in both state and federal waters.

The troll salmon fishery produces a low-volume, high-quality product. Troll-caught salmon are dressed at sea and sold either as a fresh or frozen product. Public markets and fine restaurants are the final destination.



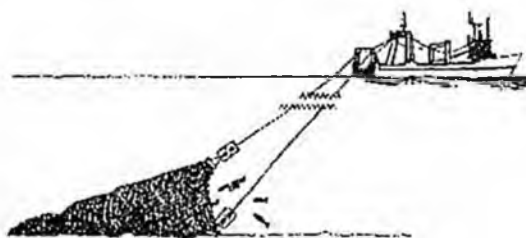
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Trawler

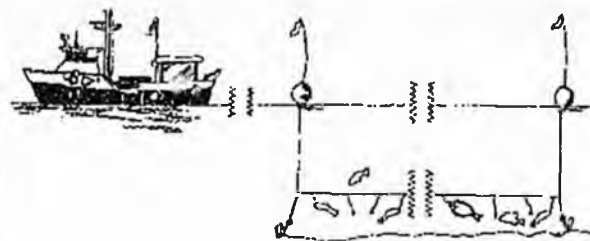
Trawlers are sometimes confused with trollers due to their similar sounding names, though there are few similarities. Trawlers typically catch large quantities of midwater species, such as pollock or pink shrimp, and bottomfish, such as flounder, by towing a large, cone-shaped net. Most trawl nets have "doors" on either side of the net's opening to help hold it open, and some, that are fished near the bottom, have a heavy chain strung along the bottom of the opening to hold it close to the sea floor. The net is retrieved via the use of huge winches and a power drum upon which the net is rolled as it is brought aboard. The end of the net, the "bag" or "cod end," holds the fish and is usually pulled right up into the back of the vessel on a slanting stern ramp.

Trawlers are generally large vessels; the largest in the ocean pollock fishery are factory trawlers that possess onboard processing facilities. These can be up to 600' in length. Catches are often enormous, with a 2-hour tow of the net yielding up to 100 tons or more, depending on the fishery, the size of the vessel, and the concentration of fish in the area.

The trawl fishery may process its catches into fillets, as in the case of flounder destined for the fresh and frozen market, or minced fish called "surimi," which is manufactured into fish sticks and similar products such as artificial king crab. Shrimp fishermen sort their catches by size and species and sell the product as either a whole, frozen product, or as a headed, frozen product.



Longliner



Longliners catch bottomfish (primarily halibut, blackcod, lingcod, and rockfish) via a long line that is laid on the bottom. Attached are leaders (called gangions) with baited hooks. Each longline can be up to a mile in length and have thousands of baited hooks. The lines are anchored at each end of each "set." Lines at the ends run to the surface and are marked with a buoy and flag. A longline vessel typically sets several lines for a 24-hour "soak." The lines are retrieved over a side roller with a power winch, and the fish caught are bled or dressed and then packed in ice in the vessel's hold.

Longliners are typically large vessels, 50' to 100' in length, with a weather cover on the stern to protect the crew. The longlines are coiled and stacked on deck in tubs when not in use. Most vessels in this fishery can pack 20 to 40 tons, or more, of iced product before returning to port. Longliners are readily identified by their weather cover and, when not fishing, by the numerous orange buoys and flags that are tied along their rails.

This fishery delivers its catch whole and bled (rockfish), or whole and gutted (halibut), or headed and gutted (blackcod and lingcod) for subsequent sale to fresh and frozen markets.



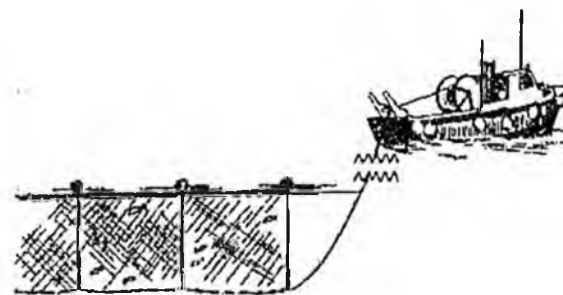
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Gillnetter

Gillnetters catch salmon, primarily sockeye, chum, and coho, by setting curtain-like nets perpendicular to the direction in which the fish are travelling as they migrate along the coast toward their natal streams. The net has a float line on the top and a weighted lead line on the bottom. The mesh openings are designed to be just large enough to allow the male fish, which are usually larger, to get their heads stuck ("gilled") in the mesh. Much larger fish and the smaller females are not so readily gilled. Gillnets work best in silty or turbid water which makes them difficult for the fish to see.

Gillnet vessels are usually 30' to 40' long. They are easily recognized by the drum on either the front ("bow picker") or the stern ("stern picker"), on which the net is rolled. Net retrieval is by hydraulic power which turns the drum. Fish are removed from the net by hand "picking" them from the mesh as the net is reeled onboard.

Gillnet-caught salmon are usually iced and delivered to buyers and cold storages. Historically, their ultimate destination was the canned market, though a growing market for frozen product has developed overseas.



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ADF&G Chart Series

2001 Groundfish/Shellfish Statistical Area Charts

The new series of ten ADF&G groundfish/shellfish statistical area charts became effective on January 1, 2001 for groundfish fisheries statewide and for shellfish fisheries excluding Southeast Alaska. These new charts should be used for determining statistical areas for filling out fish tickets from this date forward. Older versions of the charts should be retained for doing historic harvest analysis.

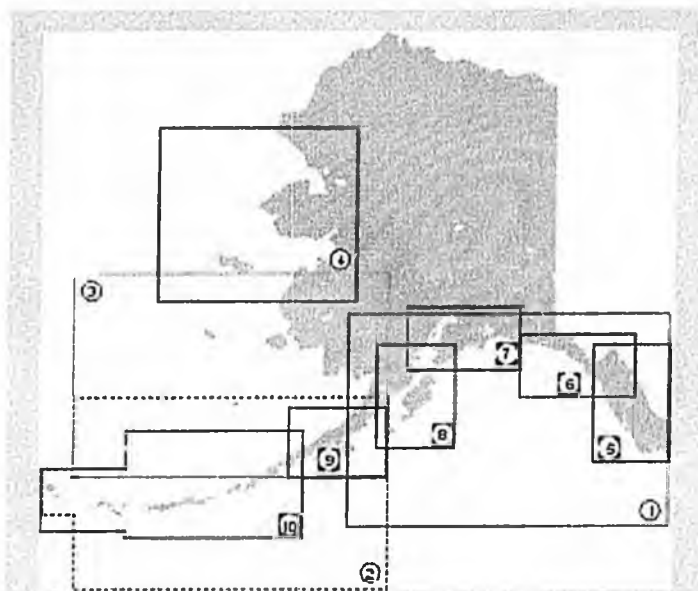
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Each of the ten charts may be downloaded as a PDF file* by clicking on any of the designated chart area NUMBERS shown in the Index Map at right (or by using the PDF links below the map).

To download a PDF file, *RIGHT-CLICK* on the chart link NUMBER in the map itself (or on the specific link below the map) and choose "Save Link As" (Netscape) or "Save Target As" (Internet Explorer).

Tips:

- To print select areas of the large PDF maps it is recommended that PDF files be downloaded to your PC — all viewing and printing can then be done in your



The charts are divided up into small-scale and large-scale charts and are available as follows:

Larger Index Map – 604K

○ Small-scale charts

- 1 - Gulf of Alaska* – 1,228K
- 2 - AK Peninsula and Aleutian Islands* – 1,005K
- 3 - Bering Sea** – 885K
- 4 - Northern Bering Sea – 605K

* outside waters statistical areas only

** outside waters statistical areas and inside waters statistical areas north of 57° North latitude

⌚ Large-scale charts

- 5 - Southeast AK (aroundfish only) – 1,044K

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Questions?

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History and Development of the Scallop Fishery in Alaska

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ABSTRACT

The weathervane scallop *Patinopecten caurinus* is a large, long-lived pectinid distributed from California to Alaska. A commercial dredge fishery from northern Southeast Alaska to the Bering Sea targets the species. The fishery developed rapidly in the late 1960s, declined sharply in the mid 1970s due to local depletion and availability of other fishing alternatives, and increased quickly in the late 1980s with improved stock conditions and prices. Fishery management evolved accordingly. Passive management regulations were replaced by active fishery management plans in the early 1990s in response to overcapitalization and resource conservation concerns. In recent years, fishery management plans have stabilized harvests at about 0.8 million pounds of shucked meats annually through guideline harvest levels and crab bycatch limits. An onboard observer program is a critical component of the fishery management process, providing important information on the biology, distribution, and relative abundance of Alaska's scallop stocks.

INTRODUCTION

The purpose of this report is to provide a brief overview of biology, history, and management of the weathervane scallop *Patinopecten caurinus* fishery in Alaska. The fishery is managed with a precautionary approach given a lack of complete information on the species and its

productivity. Studies of scallop biology, abundance, productivity, and fishing effects are critically needed to fill information voids so that fishery management can better strive toward sustained optimal yields while minimizing adverse effects on other species and habitats. A high level of observer coverage on a small fleet renders this a very tractable fishery for research.

THE WEATHERVANE SCALLOP

Weathervane scallops are distributed from Point Reyes, California, to the Pribilof Islands, Alaska (Foster 1991). They are found from intertidal waters to depths of 300 m (Foster 1991), but they tend to be most abundant between depths of 45–130 m on mud, clay, sand, and gravel (Hennick 1973). Scallop beds tend to be elongated in the direction of mean current flow. In Alaska, highest abundances of scallops exist off Yakutat, Kodiak Island, and in the Bering Sea, with smaller aggregations occurring in Prince William Sound and off the Alaska Peninsula and Aleutian Islands (Figure 1).

Most weathervane scallops mature at 76-mm shell height (SH) at about age 3 (Haynes and Powell 1968, Hennick 1973). Funk (unpublished data) fitted Gompertz growth equations to scallop data collected in the late 1960s and early 1970s by Hennick (1973). Scallops off Yakutat grow much more slowly than scallops off Kodiak Island, and scallops off the west side of Kodiak grow more slowly than those from the northeast side of Kodiak. The largest recorded Alaskan specimen measured 250-mm SH and weighed 340 g (Hennick 1973).

Weathervane scallops are long-lived; the oldest Alaskan specimen was estimated to be 28 years old (Hennick 1973). Kruse (1994) estimated mortality rates for four areas in Alaska using three different methods. Instantaneous natural mortality rates varied from 0.04 to 0.21 with a median of 0.13, corresponding to 12% annually.

FISHERY HISTORY

The Alaskan scallop fishery provides a classic example of fishery evolution through several developmental stages: discovery and initiation of development, bandwagon growth, fallback, and subsequent evolutionary development (Walters 1986). A fishery for weathervane scallops in Alaska began in 1967 using paired New Bedford-style scallop dredges (Haynes and Powell 1968). Within one year the fishery became fully developed when 19 vessels made 125 landings totaling 1.7 million pounds of shucked meats (Figure 2).¹ Catches peaked in 1969 when 157 landings totaled 1.9 million pounds. Harvests off Kodiak and Yakutat accounted for nearly all of the landings in the early years of the fishery. Whereas catches from the early fishery were dominated by old scallops (≥ 7 years of age), landings shifted toward younger ages (2–6 year olds) by the early 1970s (Hennick 1973). Landings declined to 0.4 million pounds in 1975 as average landing per trip declined (Kaiser 1986). Less than

¹ Meat recovery rate averages about 10% but varies between 9% and 11% depending on scallop size, season, and area.

three vessels participated in the fishery each year from 1976-1979. No vessels participated in 1978.

In the 1980s the weathervane scallop fishery received renewed interest due to increased exvessel prices and recovering stock conditions. On an annual basis during the 1980s, an average of nine vessels delivered 0.6 million pounds worth \$2.15 million. Unlike the 1970s when Kodiak and Yakutat accounted for 93% of the landings, during the 1980s 33% of the landings were taken from Dutch Harbor and other areas such as Southeast Alaska, Cook Inlet, Alaska Peninsula, and the Bering Sea.

In 1990 nine vessels made 144 deliveries that totaled 1.5 million pounds (Figure 2). By late 1992 landings exceeded 1.8 million pounds, the highest harvest since fishing on virgin stocks. The fishing power of the fleet increased substantially in the 1990s. The number of vessels increased from 4 in 1988 to 16 in 1993. Mean vessel length increased from 83 feet in 1981 to 110 feet in 1991, and mean crew size increased from 5.5 in 1984 to 12 in 1993. Some vessels used automatic shucking machines. Concerns about resource conservation and fleet overcapitalization led to new state (1994) and federal (1995) fishery management plans (FMPs). As a result, statewide landings have averaged about 0.8 million pounds since 1996. For more complete descriptions of the history of the Alaskan scallop fishery, see Kaiser (1986), Kruse and Shirley (1994), and Shirley and Kruse (1995).

FISHERY MANAGEMENT

Prior to 1993 no FMP existed for scallops in Alaska. Rather, the fishery was managed by a set of passive regulations, such as gear restrictions, closed areas to protect crabs, and fishing seasons (ADF&G 1993, Kruse et al. 1992). Owing to increased landings, fishing power, and resource conservation concerns in the early 1990s, the scallop fishery met the conditions of a high-impact emerging fishery (5 AAC 39.210 in ADF&G 1993). Therefore, the Alaska Department of Fish and Game (ADF&G) developed fishery management options (Kruse et al. 1992), solicited public comment, and implemented an interim FMP and associated regulations in 1993 (5 AAC 38.076 in ADF&G 1993). Later, a draft FMP (Kruse 1994) was prepared to fully describe the rationale and strategy for scallop management and fishing regulations. The Alaska Board of Fisheries (BOF) adopted a scallop FMP in March 1994, and a current version appears in state regulations (5AAC 38.076 in ADF&G 1999).

In 1995 the National Marine Fisheries Service (NMFS) became involved in scallop fishery management when the catcher-processor vessel *Mister Big* fished in the Exclusive Economic Zone (EEZ) without a State of Alaska permit. NMFS issued an emergency interim rule in February 1995 to close federal waters to scallop fishing to prevent overfishing. In July 1995 the North Pacific Fishery Management Council (NPFMC) adopted a federal FMP to formally close EEZ waters to scallop fishing. Since then, the federal FMP, including six amendments, delegates most management to the State of Alaska.

Primary management objectives of the scallop FMP are to: (1) ensure long-term viability of scallop populations, (2) minimize adverse effects of gear on habitat and other species, (3) prosecute steady-paced fisheries that provide long-term socioeconomic benefits,

(4) maintain resource availability to subsistence users, and (5) conduct research to increase knowledge for future management decisions. Key management measures to achieve these objectives include establishment of nine registration areas, area closures to protect crab habitat, a limited entry program to prevent overcapitalization, fishing season (July 1 through February 15, except for August 15 to October 31 in Kamishak Bay), gear specifications (e.g., no more than two dredges of maximum size, 15 feet with 4-inch minimum ring size), guideline harvest ranges for each area constrained by an overall cap of 1.24 million pounds of shucked meats, crab bycatch limits set at 0.5% to 1% of the crab population, 100% onboard observer coverage requirements, and efficiency controls (e.g., crew size limited to 12 and a ban on automatic shucking machines). Scallop regulatory proposals are reviewed once every three years by the BOF and as needed by the NPFMC.

DATA COLLECTION AND FISHERY RESEARCH

ADF&G conducts a small research program on weathervane scallops to implement and improve management of the fishery. The most important element is an onboard observer program that was instituted in 1993. All scallop vessels, except those fishing in Kamishak Bay, must carry an onboard observer at their own expense unless ADF&G waives this requirement. The observer collects valuable information on fishing locations, bycatch and scallop catch, size distributions, sex composition, reproductive condition, meat recovery, and injury rates. Annual reports (e.g., Barnhart and Rosenkranz 1999) provide complete descriptions and summaries of the observer data. A vessel operators' logbook program provides additional information on the fishery.

Collection of observer data has facilitated ongoing spatial analyses of scallop stock status and productivity. The geographic distribution of scallop beds has been mapped, and depletion estimators of abundance have been calculated for some beds. Ongoing aging studies are examining reliability of growth rings as a measure of age. Size and age data are providing valuable information for studies of recruitment. Preliminary analysis of biological reference points from data collected in the late 1960s and early 1970s indicated target harvest rates of 12% to 14% and overfishing rates of 16% to 20% (F. Funk, unpublished data). Updated analyses with contemporary observer data are planned. Other research needs include studies of basic biology and life history, genetic stock structure, fishery-independent stock assessments, population dynamics, gear catchability and selectivity, handling mortality, and effects of scallop dredges on the sea floor.

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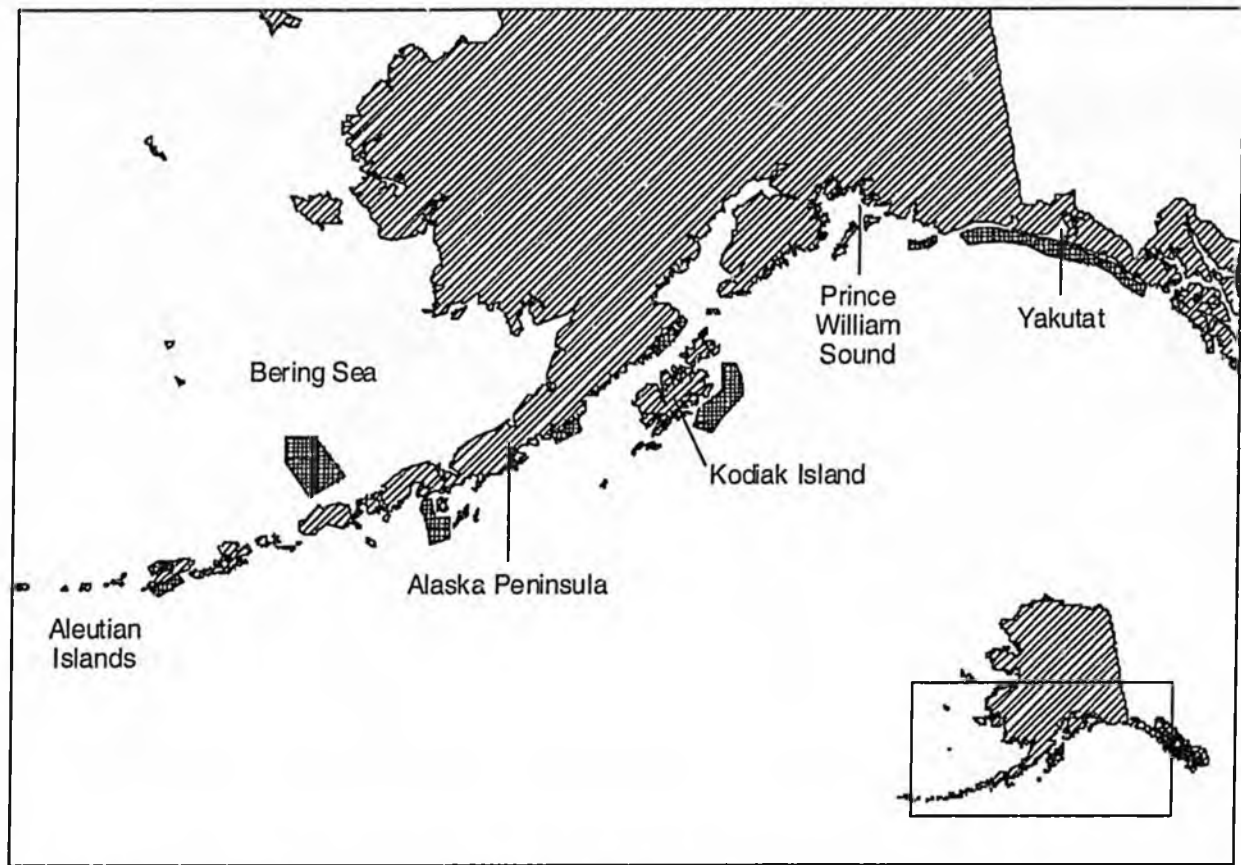


Figure 1. Locations of commercial scallop beds in Alaska.

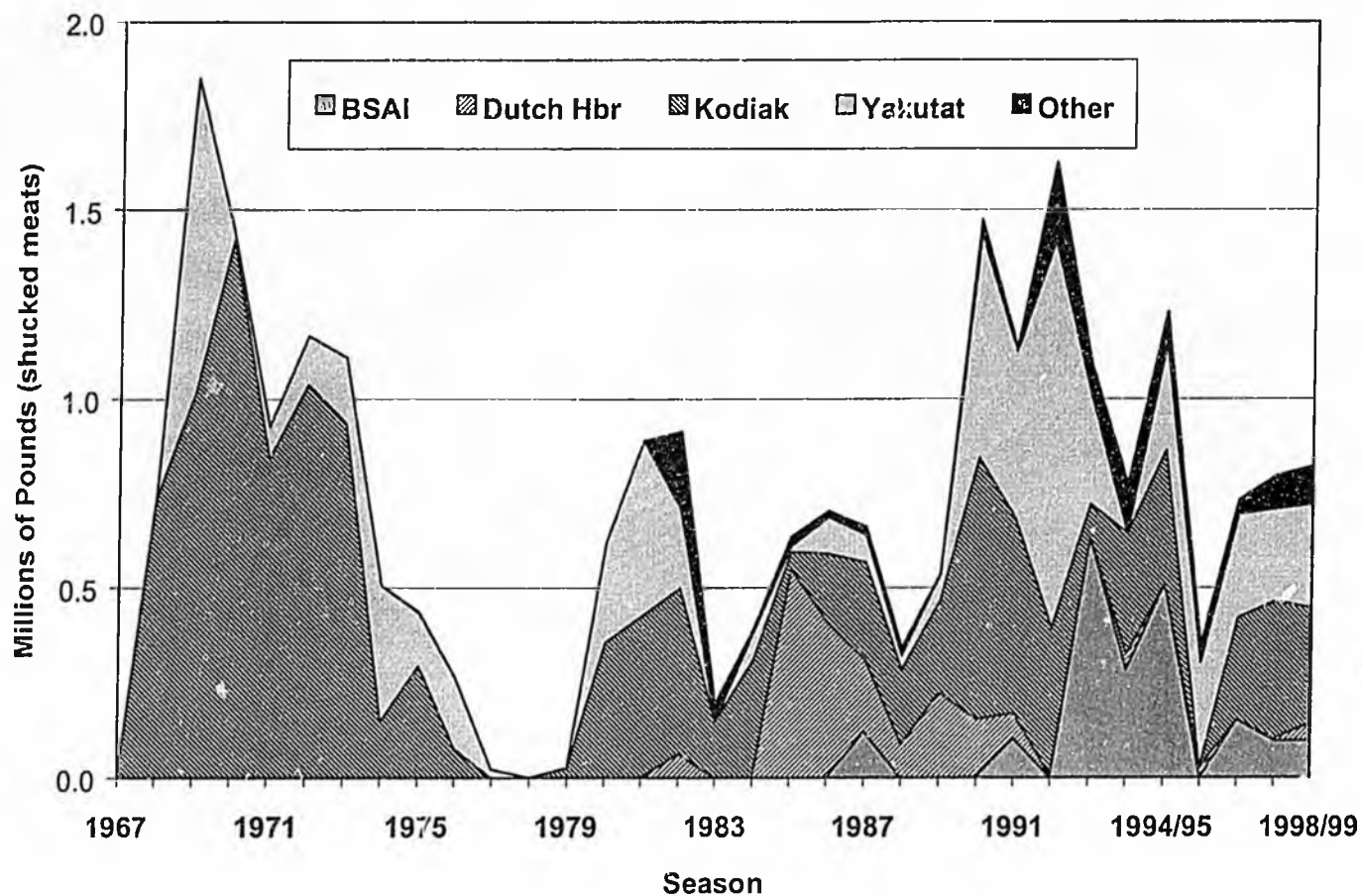


Figure 2. Historic Alaska scallop harvests during 1967–1998 for the Bering Sea–Aleutian Islands (BSAI), Dutch Harbor, Kodiak, and Yakutat Management Areas. Additional harvests occurred in Prince William Sound and Cook Inlet.

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PRESS RELEASE



Committee on Resources Don Young, Chairman

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May 10, 1995

Magnuson Act Approved By U.S. House Committee

Washington, D.C. - A major fishing conservation bill authored by U.S. Rep. Don Young (R-Alaska) that is designed to strengthen fishery resource laws and curtail wasteful fishing practices was overwhelmingly approved today by the U.S. House Committee on Resources.

H.R. 39, officially entitled "The Fishery Conservation and Management Amendments of 1995", reauthorizes the Magnuson Fishery Conservation and Management Act through Fiscal Year 2000. The legislation is expected to be considered by the full House this summer.

"This legislation addresses several important fishery issues including the reduction of bycatch and waste in our fisheries, the protection of essential habitat, the identification of overfished stocks, and the need to establish rebuilding plans for the overfished stocks," said Young, the Chairman of the committee.

"This requires a delicate balancing act but I believe we have crafted a bill which allows our fishermen and processors to make a living from the sea, while also making them better stewards of the resources they rely on for their livelihood.

"One of my primary concerns, which is addressed in this legislation, is the reduction of the wasteful bycatch problem. I know fishermen can fish cleanly. Unfortunately, there often isn't an incentive for them to do so, which leads to unbelievable amounts of bycatch in some of our fisheries.

"In 1993, in the North Pacific groundfish fishery alone, more than 740 million pounds of fish were discarded. This resulted in the waste of 16 percent of the total catch in that fishery. Much of this waste was of prohibited species. This included the outright waste of 16.7 million pounds of halibut, nearly 17 million pounds of king and Tanner crab, 372,000 pounds of salmon, and 770,000 pounds of herring.

"This is an absolute waste and must be stopped. If we are to maintain a healthy fishery, we need to aggressively attack this problem."

Young said his legislation "takes a major step" toward addressing the bycatch problem by requiring new and existing management plans to include measures to minimize bycatch to the maximum extent possible. The bill also allows the regional councils to offer incentives to those

who fish "cleanly".

"I believe incentives are the answer for getting our fishermen to clean up their act," Young said.

Young successfully led the opposition to an amendment which could have jeopardized the Community Development Quota program (CDQ) for Western Alaska, which provides fishery quotas for the Alaska Native residents in the region.

"Western Alaska is one of the poorest, most underdeveloped areas in the United States. The residents of this Bering Sea region, predominately Alaska Natives - Yup'ik and Inupiat Eskimos and Aleuts - have watched their marine resources being exploited, first by foreign fleets and later by American distant water fleets," Young said. "Due to the lack of capital and opportunity, the residents of these communities were unable to share any of the benefits of their fishery resources.

"By developing and implementing the CDQ program, the people of Western Alaska have benefited through new opportunities for employment, training and education through their participation in the fisheries of the Bering Sea."

Among the key provisions of Young's bill are:

- Expanded authority for the Secretary of Commerce to protect the overfished stocks and the rebuilding of fisheries if the regional councils fail to do so;
- Closed the loophole in the Magnuson Act which allowed a vessel to exploit the closed scallop fishery earlier this year;
- New safeguards against conflicts of interest on the regional councils;
- New requirements for the reporting of bycatch;
- New descriptions of essential habitat;
- New fishery stock rebuilding programs when necessary;
- New measures to minimize adverse impacts on essential habitat.

Young offered and was successful in passing an "en bloc" amendment package of amendments which, among other things, clarified there will be no retroactive application of Individual Transferable Quota (ITQ) sunset provisions to the existing Halibut and Sable Fish Plan. However, existing law continues to allow the regional councils to make changes in this plan.

For more information, please check the House Committee on Resources Home Page at <http://resourcescommittee.house.gov/>

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Summaries of Major Laws Implemented by the National Marine Fisheries Service ⁽¹⁾

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March 24, 1995

95-460 ENR

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SUMMARY

The National Marine Fisheries Service (NMFS) is located within the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce. NOAA and NMFS were created by President Nixon's Reorganization Plan No. 4 of July 9, 1970 (84 Stat. 2090). Programs now comprising NMFS had previously been located in the Bureau of Commercial Fisheries within U.S. Fish and Wildlife Service (FWS) in the Department of the Interior.

This report summarizes the major laws implemented by NMFS, with divisions into five categories: a) ten laws for which Congress authorizes specific annual appropriations; b) three laws for which Congress has permanently or indefinitely authorized appropriations; c) ten laws implementing international treaties or agreements; d) nine laws wherein NMFS provides consultation or acts as a trustee; and e) five other laws. In many of these enactments where the Secretary of Commerce is specifically authorized or directed to take action, NMFS has been delegated the authority to implement the provision or take specific action.

INTRODUCTION

The National Marine Fisheries Service (NMFS) is located within the National Oceanic and Atmospheric Administration (NOM) in the Department of Commerce. NOM and NMFS were created by President Nixon's Reorganization Plan No. 4 of July 9, 1970 (84 Stat. 2090). Programs now comprising NMFS had previously been located in the Bureau of Commercial Fisheries within U.S. Fish and Wildlife Service (FWS) in the Department of the Interior. This report summarizes the major laws implemented by NMFS, with divisions into five categories: a) laws for which Congress authorizes specific annual appropriations; b) laws for which Congress has permanently or indefinitely authorized appropriations; c) laws implementing international treaties or agreements; d) laws wherein NMFS provides consultation or acts as a trustee; and e) other laws. In many of these enactments where the Secretary of Commerce is specifically authorized or directed to take action, NMFS has been delegated the authority to implement the provision or take specific action.

ANNUAL AUTHORIZATIONS

Table 1 summarizes the status of authorizations for the various laws implemented by NMFS which include annual authorizations for appropriations.

TABLE 1: Status of Laws Authorizing Annual Appropriations to NMFS

Statute	U.S. Code Citation	Authorization Expires
Anadromous Fish Conservation Act	16 USC 757d	9/30/95
	16 USC 757g	9/30/94
Atlantic Coastal Fisheries Cooperative Management Act	16 USC 5109	9/30/96
Atlantic Striped Bass Conservation Act	16 USC 1851 note	9/30/94
Central, Western, and South Pacific Fisheries Development Act	16 USC 758e-5	9/30/95
Endangered Species Act	16 USC 1542	9/30/92
Interjurisdictional Fisheries Act of 1986	16 USC 4107(a)	9/30/95
	16 USC 4107(b)	9/30/95
	16 USC 4107(c)	9/30/95
	16 USC 4107(d)	9/30/92
Magnuson Fishery Conservation and Management Act	16 USC 1882	9/30/93
Marine Mammal Protection Act	16 USC 1384	9/30/99
Marine Protection, Research, and Sanctuaries Act, Title II	33 USC 1445	9/30/90
National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act	97 Stat 1409	9/30/93

Anadromous Fish Conservation Act

The Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; Pub. L. 89-304, as amended) authorizes the Secretary of Commerce, along with the Secretary of Interior, or both, to enter into cooperative agreements to protect anadromous and Great Lakes fishery resources. To conserve, develop, and enhance anadromous fisheries, the fisheries which the United States has agreed to conserve through international agreements, and the fisheries of the Great Lakes and Lake Champlain, the Secretary may enter into agreements with States and other non-Federal interests. An agreement must specify: (1) the actions to be taken; (2) the benefits expected; (3) the estimated costs; (4) the cost distribution between the involved parties; (5) the term of the agreement; (6) the terms and conditions for disposal of property acquired by the Secretary; and (7) any other pertinent terms and conditions.

Pursuant to the agreements authorized under the Act, the Secretary may: (1) conduct investigations, engineering and biological surveys, and research; (2) carry out stream clearance

activities; (3) undertake actions to facilitate the fishery resources and their free migration; (4) use fish hatcheries to accomplish the purposes of this Act; (5) study and make recommendations regarding the development and management of streams and other bodies of water consistent with the intent of the Act; (6) acquire lands or interest therein; (7) accept donations to be used for acquiring or managing lands or interests therein; and (8) administer such lands or interest therein in a manner consistent with the intent of this Act. Following the collection of these data, the Secretary makes recommendations pertaining to the elimination or reduction of polluting substances detrimental to fish and wildlife in interstate or navigable waterways. Joint NMFS-FWS regulations applicable to this program are published in 50 *C.F.R.* Part 401.

The Secretary of Commerce also cooperates with States and other non-Federal interests in studying anadromous stocks of Atlantic striped bass. NMFS and the U.S. FWS hold periodic joint meetings to discuss progress of the Emergency Striped Bass Research Study. The most recent such meeting was held on December 2, 1993.

Under §757d, \$8 million is authorized for FY95 for activities conducted under cooperative agreements, while §757g authorized \$1 million for Atlantic striped bass studies for FY94. For cooperative agreements under the Act, \$2.18 million was appropriated in FY94. For striped bass activities, \$250,000 was appropriated during both FY94 and FY95. States have used these funds to conduct research on and monitoring of anadromous species, and NMFS has conducted tagging and stock assessment studies.

Atlantic Coastal Fisheries Cooperative Management Act

The Atlantic Coastal Fisheries Cooperative Management Act (16 *U.S.C.* 5101-5109; Title VIII of Pub. L. 103-206, as amended) authorizes the Secretary of Commerce to provide financial assistance to the Atlantic States Marine Fisheries Commission and to Atlantic coastal States to adopt and implement fishery management plans for coastal fisheries. If the Commission reports to the Secretary that it finds a State is not complying with an adopted plan, the Secretary may impose a moratorium on all fishing for the species in question within the offending State's waters until that State comes into compliance.

For FY95, \$5 million is authorized for these activities. During FY94, \$3.2 million, plus an additional \$500,000 for the interstate commissions, was transferred from appropriations under the authority of the Interjurisdictional Fisheries Act for work conducted under the Atlantic Coastal Fisheries Cooperative Management Act. NMFS and the FWS have developed a cooperative Memorandum of Understanding to coordinate Federal actions required by the Act, developed and implemented a funding strategy for distribution of funds to State and Federal agencies, and established procedures for implementing a federally imposed moratorium for States not in compliance with the Atlantic States Marine Fisheries Commission's fishery management plans. The NMFS Office of Enforcement participates in meetings of the Atlantic States Marine Fisheries Commission's Law Enforcement Committee. In 1994, this Committee addressed possible enforcement activities to be taken after a moratoria is declared under the authority of this Act.

On December 5, 1994 (59 *Federal Register* 63326, December 8, 1994), NMFS first used the Atlantic Coastal Fisheries Cooperative Management Act of 1993 by finding New Jersey not in compliance with the Atlantic States Marine Fisheries Commission's Interstate Coastal Fishery Plans for Atlantic sturgeon, bluefish, and weakfish. A moratorium on fishing in New Jersey State waters will be implemented on April 15, 1995, if the State does not come into compliance with the Commission's plans by April 1, 1995.

Atlantic Striped Bass Conservation Act

The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note; Pub. L. 98-613, as amended) authorizes the Secretaries of Commerce and the Interior to assist in the conservation and management of the Atlantic striped bass. To accomplish this goal, the Secretaries may use the resources of any other Federal agency or department, or any coastal State. Regulations for management of the Atlantic striped bass fishery in Federal exclusive economic zone (EEZ) waters are published in 50 C.F.R. Part 656.

Upon certification by the Atlantic States Marine Fisheries Commission that a coastal State is not in compliance with the Interstate Fisheries Management Plan for Striped Bass, the Secretaries of Commerce and the Interior are required to implement a moratorium on fishing for Atlantic striped bass in the coastal waters of that State, pending a review. During the period of the moratorium, it is illegal to fish within the moratorium area for Atlantic striped bass. This includes failing to return to the water any Atlantic striped bass taken incidentally from the moratorium area, regardless of physical condition. The Act allows for civil penalties and/or forfeitures for violation of the moratorium or any regulations promulgated pursuant to this Act. This provision was used in 1987 for New Jersey and the District of Columbia and again in 1988 for New Jersey when they were notified that a moratorium on fishing might be instituted because they were not in compliance with the Interstate Fisheries Management Plan for Striped Bass. In each case, the moratorium was not implemented because their regulations were brought into compliance with the Plan. During 1990, however, New Jersey was again cited for being out of compliance and a moratorium was implemented for a few days in March until the State's fishing regulations were adequately revised. All States have been reported in compliance with the Striped Bass Plan since 1991.

To facilitate implementing the provisions of this Act, the Secretaries of Commerce and the Interior conduct comprehensive annual surveys of Atlantic striped bass fisheries. Included in these surveys are, among other things, a compilation and assessment of the recreational and commercial landings of this species in coastal States. The results of this survey are published in the *Federal Register* annually. The most recent (1993 survey) was published February 17, 1995 (60 *Federal Register* 9324).

During 1994, NMFS participated in the Commission's management planning program to develop Amendment 5 to the Interstate Fisheries Management Plan for Striped Bass that is designed to relax fishing restrictions on striped bass fishing because stocks are recovering. Amendment 5 is expected to be implemented during 1995.

The Act was authorized for "such sums as may be necessary or appropriate to carry out this Act" through FY94. No funds, however, have been appropriated under this authority.

Central, Western, and South Pacific Fisheries Development Act

The Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-758e-5; Pub. L. 92-444, as amended) authorizes the Secretary of Commerce to conduct a program for the development of tuna and other fisheries resources of the Central, Western, and South Pacific Ocean.

The Secretary of Commerce is authorized to conduct, either by contract or directly, a program for the development of tuna and other fisheries resources of the Central, Western, and South

Pacific Ocean in cooperation with the Pacific Fisheries Development Foundation. The goals of this program include exploring for and assessing tuna and other fish stocks; improving harvesting techniques; developing gear; monitoring the biological resource; and evaluating the economic potential for tuna and other fisheries resources within the area. In implementing this Act, the Secretary of Commerce may consult and cooperate with the Secretaries of the Interior and State, Hawaii and other affected States, the Governments of American Samoa and Guam, the Commonwealth of the Northern Mariana Islands, educational institutions, the commercial fishing industry, and all appropriate member nations of the South Pacific regional fishery agency. The Secretary of Commerce makes the results and findings of research or development projects conducted under the authority of this Act available to all interested member nations of the agency.

For FY95, \$5 million is authorized for this program.

Endangered Species Act

The Endangered Species Act (ESA; 16 *U.S.C.* 1531-1543; Pub. L. 93-205, as amended) was enacted in 1973 to provide for the conservation of species which are in danger of extinction throughout all or a significant portion of their range (for more information, see "Endangered Species: Continuing Controversy," CRS Issue Brief IB97046). "Species" is defined by the Act to mean either a species, a subspecies, or, for vertebrates (*i.e.*, fish, reptiles, mammals, etc.) only, a distinct population.

Anyone may petition to have a species considered for listing as endangered or threatened, the action which qualifies it for increased protective measures. NMFS regulations concerning ESA listing procedures are published at 50 *C.F.R.* Parts 217-227, with joint NMFS-FWS regulations appearing at 50 *C.F.R.* Parts 402 and 424-453. Generally, the U.S. FWS coordinates ESA activities for terrestrial and freshwater species, while NMFS is responsible for marine species and Pacific salmon. Within 90 days of a listing petition's filing, an agency decision is made on whether to reject the petition, or accept it for a further intensive status review of the species. (2) If a status review is conducted, it is initiated with a public solicitation of information and data relevant to the species of concern. A species must be listed if it is threatened or endangered because of any of the following five factors:

- - present or threatened destruction, modification, or curtailment of its habitat or range;
- - overutilization for commercial, recreational, scientific, or educational purposes;
- - disease or predation;
- - inadequacy of existing regulatory mechanisms; and
- - other natural or manmade factors affecting its continued existence.

Additional important considerations for an ESA listing decision, especially concerning anadromous fish, include defining distinct population segments that qualify as species, determining the abundance threshold for threatened and endangered status, and determining the causes of decline. NMFS will consider listing individual Pacific salmon populations only if they are evolutionarily significant units, defined as "substantially reproductively isolated" and "an important component in the evolutionary legacy of the species" (56 *Federal Register* 58612, Nov. 20, 1991; for more information, see CRS Report 92-944 ENR, The Listing of a Species: Legal Definitions and Biological Realities).

Economic considerations are legally not relevant to the listing decision; this decision is to be

made solely on the basis of the best biological data available. Except for extensions due to consideration of other proposals, a one-year time limit is placed on making the decision to propose listing. If the agency proposes listing, public comments are again solicited on the proposed listing, and a final decision is made within one year after the issuance of the proposal.
(3)

Concurrent with the listing decision, critical habitat believed necessary for the continued survival of species is designated. For this decision, economic impacts must be considered. If information is insufficient to designate critical habitat at the time of listing, or if designation of critical habitat would not be "prudent," the Government may take an additional year to identify it.

Once a species is listed, recovery plans are prepared which identify mitigation measures to be initiated to improve the species' status. In addition, the ESA §7 consultation process requires all Federal agencies to use their authorities to conduct conservation programs (mitigation measures) and to consult with NMFS (or the FWS) concerning the potential effects of their actions on any species under the Act's jurisdiction.

For FY92, \$6.75 million was authorized for Department of Commerce ESA activities. Most recently, \$8.6 million was appropriated for NMFS's ESA activities in FY94, increasing to \$17 million for FY95. NMFS publishes the *Endangered Species Act Biennial Report: Status of Recovery Program*, with the most recent issue summarizing January 1992 through June 1994 program activities.

Much of NMFS's recent ESA activities involve its duty to develop strategies for the conservation and survival of endangered and threatened species. In the area of marine mammals, the ESA and the Marine Mammal Protection Act (MMPA) offer similar management authority for endangered and threatened marine mammal species or stocks. Section 4(f) of the ESA requires the development and implementation of recovery conservation plans, while §115 of the MMPA mandates conservation plans modeled after the ESA for listed species. Several species of whales and sea turtles, the North Pacific fur seal, Hawaiian monk seals, and Stellar sea lions have final recovery plans or conservation plans. Major efforts are also underway for the recovery of listed stocks of Pacific salmon, shortnose sturgeon, and grey sturgeon. Consultations occur on an on-going basis under §7 with Federal action agencies to avoid or mitigate the impacts of their activities on listed species. NMFS also reviews non-Federal activities which may affect listed species and issues §10 permits for incidental take.

In 1994, the NMFS Office of Enforcement initiated 353 cases under the ESA. In the last quarter of the year, a task force of enforcement personnel from all NMFS regions conducted more than 500 boardings of shrimp vessels in the Gulf of Mexico to ensure compliance with regulations regarding turtle excluder devices. This operation resulted in approximately 70 enforcement actions. The majority of the remaining ESA cases involved illegal importations of endangered species parts and products and illegal taking, including harassment, of endangered species.

Interjurisdictional Fisheries Act of 1986

The Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101-4107; Pub. L. 99-659, as amended) authorizes the Secretary of Commerce to apportion money to the States for use in developing research programs to enhance the management of interjurisdictional fisheries. NMFS regulations applicable to this program are published in 50 C.F.R. Part 253.

The Secretary of Commerce is authorized to apportion funds to the States for the development

of interjurisdictional fisheries. For funds to be disbursed, the Secretary of Commerce has to evaluate the proposed project to ensure funds will be used in the most efficient manner. The Federal Government's share of the cost does not exceed 75 percent of the total projected cost. If the Secretary rejects a proposal, a written explanation must be given to the petitioning State. Any property acquired during the fulfillment of a project is considered the property of the State. However, if the State sells the property for a profit, an amount equal to the proportion of Federal funding which went into acquiring the property must be repaid to the U.S. Treasury. Once States have received funding, the Secretary of Commerce writes a follow-up report on the project for Congress. Included in the report are a description of the project, how much money has been spent on each project by both State and Federal Governments, an assessment of how the project is progressing, and a statement describing all funds which have been allocated pursuant to this Act and the amount of remaining funds.

Under §4107(a), \$5 million is authorized for FY95 for general activities, while §4107(b) authorizes an additional \$2.5 million for FY95 for cost-sharing programs with States experiencing a commercial fishery failure or a serious disruption from a natural disaster. Grants to commercial fishermen for uninsured losses from specified natural disasters were authorized at \$65 million during FY92 under §4107(d). During 1994, \$12 million of those funds were designated for Northwest salmon disaster relief. This disaster relief will fund three programs: (1) a vessel permit buyout program (Washington Department of Fish and Wildlife); (2) a habitat restoration jobs program (Natural Resources Conservation Service of the U.S. Department of Agriculture); and (3) a data collection jobs program (Pacific States Marine Fisheries Commission). In addition to these disaster funds, the Disaster Emergency Supplemental Act of 1992 (Pub. L. 102-368) appropriated \$8.5 million for disaster related work, of which \$5.1 million was used in 1993 for shellfish restoration activities to mitigate hurricane damage in California. During 1994, a disaster was also declared in the New England groundfish fishery and \$30 million was appropriated for relief efforts in that area. For general activities under the Act, \$3.156 million was authorized in 1994, with an additional \$3.7 million transferred to fund activities conducted under the authority of the Atlantic Coastal Fisheries Cooperative Management Act. With the funds for general activities under the Act, States have studied and monitored interjurisdictional species.

Magnuson Fishery Conservation and Management Act

The 1976 enactment of the Fishery Conservation and Management Act (FCMA; 16 U.S.C. 1801-1882; Pub. L. 94-265, as amended; later renamed the Magnuson Fishery Conservation and Management Act for the late Senator Warren G. Magnuson) ushered in a new era for U.S. marine fisheries management. The FCMA was signed into law on April 13, 1976, after several years of debate on the merits of, and various approaches to, extended fisheries jurisdiction. On March 1, 1977, fisheries resources within 200 miles of all U.S. coasts came under Federal jurisdiction, and a multifaceted regional management system began allocating harvesting rights, with priority given to domestic enterprises. Exclusive Federal management authority was vested in NMFS, within NOAA of the Department of Commerce. The 200-mile fisheries conservation zone was superseded by an EEZ, proclaimed by President Reagan on March 10, 1983. (4)

Under provisions of this Act, eight Regional Fishery Management Councils were established for the New England, Mid-Atlantic, South Atlantic, Caribbean, Gulf of Mexico, Pacific, Western Pacific, and North Pacific regions. Regulations relating to Regional Council activities and operations are published in 50 C.F.R. Parts 601 and 605. The eight Councils prepare fishery management plans (FMPs) for those fisheries, (5) both commercial and recreational, which they determine to require active Federal management. Guidelines for preparation of FMPs in conformance with national standards (§1851 of the MFCMA) are published in 50 C.F.R. Part

602. An environmental assessment or environmental impact statement is prepared for every FMP submitted. After public hearings on these plans, revised FMPs and draft regulations are submitted to the Secretary of Commerce for approval. Regulations are published in the *Federal Register* to implement approved plans. Completed plans may be amended and revised through similar procedures. As of January 1, 1995, these Councils had implemented 34 FMPs for various fish and shellfish resources, with 11 additional plans in various stages of development. Some plans are created for individual or a few closely related species (e.g., FMPs for red drum by the South Atlantic Council, northern anchovy by the Pacific Council, and for shrimp by the Gulf of Mexico Council). Others are developed for larger species assemblages inhabiting similar habitat (e.g., FMPs for Gulf of Alaska groundfish by the North Pacific Council and for reef fish by the Gulf of Mexico Council). Many of the implemented plans have undergone subsequent amendment (one has been amended more than 30 times), and three plans have been developed and implemented jointly by two or more Councils. In addition, Pub. L. 101-627 amended the MFCMA to give the Secretary of Commerce the responsibility for preparing FMPs for Atlantic highly migratory species, such as sharks, billfish, and tuna. Regulations implementing individual FMPs are published in 50 *C.F.R.* Parts 625 through 685.

Initially under MFCMA authority, a substantial portion of fishery resources in offshore waters under Federal jurisdiction was allocated for foreign harvest. However, foreign allocations were reduced as domestic fish harvesting and processing industries expanded under the domestic preference authorized by the MFCMA. Under the MFCMA, foreign harvests from the U.S. EEZ declined from about 3.8 billion pounds in 1977, to zero in 1992. Commensurate with the decline of foreign harvest, domestic offshore catch increased from about 1.56 billion pounds (1977) to more than 6.32 billion pounds (1993). Thus, the percent of fish harvested by foreign nations from the U.S. EEZ declined from 71 percent in 1977 to nothing by 1992.

Since 1977, total fish harvest from the U.S. EEZ increased more than 325 percent to a peak of 6.65 billion pounds annually in 1986-1988, but has subsequently declined -- 6.52 billion pounds were landed in 1993. Currently, the largest offshore fishery, in terms of volume landed, is Alaska pollock, with more than 3 billion pounds harvested in 1993. By value, Alaska pollock (almost \$337 million) and Gulf of Mexico shrimp (more than \$190 million) were the leading fisheries in 1993.

For FY93, \$102 million was authorized for MFCMA activities. In calendar year 1994, 27 FMP amendments prepared by Regional Councils were implemented. These included major amendments to the FMPs for the Atlantic sea scallop fishery, the American lobster fishery, the Northeast multispecies (groundfish) fishery, corals and coral reefs of the Gulf of Mexico and the South Atlantic, the Western Pacific pelagics fishery, and the Bering Sea and Aleutian Islands groundfish fishery. In addition, major regulatory amendments to implement the North Pacific Fishery Research Plan (59 *Federal Register* 61556, December 1, 1994) and an inshore/offshore allocation program for whiting in the Pacific Coast groundfish fishery (59 *Federal Register* 17491, April 13, 1994) were promulgated. The Administration also proposed amendments to reauthorize and amend the Magnuson Act (S. 2138 and H.R. 4430). Major proposals included provisions concerning rebuilding depleted stocks, identifying essential fishery habitat, creating a national data collection program, reducing bycatch, and addressing perceptions of conflict of interest on the Regional Councils.

Enforcement of this law and FMP regulations account for the largest portion of NMFS's enforcement activity. In 1994, the NMFS Office of Enforcement, U.S. Coast Guard, and State enforcement officers, working under cooperative agreements, initiated 979 cases under the MFCMA. Included in these violations were 10 foreign vessels (4 Canadian, 2 Japanese, 2

Korean, 1 Taiwanese, and 1 Mexican) cited for fishing illegally in the U.S. EEZ.

Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (MMPA; 16 *U.S.C.* 1361-1421; Pub. L. 92-522, as amended) was most recently reauthorized in 1994 (Pub. L. 103-238), and the current authorization for appropriations expires at the end of FY99. In passing the MMPA in 1972, Congress found that:

- - certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;
- - such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population level;
- - measures should be taken immediately to replenish any species or population stock which has already been diminished below its optimum sustainable level. In particular, efforts should be made to protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;
- - there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully; and
- - marine mammals have proven themselves to be resources of great international significance, aesthetic and recreational as well as economic. (6)

The MMPA established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and on the importing of marine mammals and marine mammal products into the United States. It defines the term "take" to mean "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." (7)

Under the MMPA, the Secretary of Commerce is responsible for the conservation and management of pinnipeds (other than walruses) and cetaceans. The Secretary of the Interior is responsible for walruses, sea and marine otters, polar bears, manatees, and dugongs. (8) The Secretary of Commerce delegated MMPA authority to NMFS. Title II of the Act established an independent Marine Mammal Commission and its Committee of Scientific Advisors to oversee and recommend actions necessary to meet the intents and provisions of the Act. NMFS regulations concerning MMPA permits and procedures are published at 50 *C.F.R.* Parts 216 and 228-229, with additional joint NMFS-FWS regulations appearing at 50 *C.F.R.* Part 403.

Prior to passage of the MMPA, States were responsible for the marine mammals on lands and in waters under their jurisdiction. The MMPA vested marine mammal management authority in the Federal Government. It provides that management authority, on a species-by-species basis, could be returned to States that adopt conservation and management programs consistent with the purposes and policies of the Act. (9) It also provides that the moratorium on taking can be waived for specific purposes (excluding public display and scientific research, for which permits may be issued) if the taking will not disadvantage the affected species or stock. It provides that permits may be issued to take or import any marine mammal species, including depleted species, to conduct scientific research or to enhance the survival or recovery of a species or stocky Permits may also be issued to take or import non-depleted species for public display.

These permits are very specific in designating numbers and species of animal that can be taken, as well as times, dates, places, and methods of taking.

In 1994, Pub. L. 103-238 amended the MMPA, establishing a new regime to govern the taking of marine mammals incidental to commercial fishing, and replacing an Interim Exemption in place since 1988. This new regime included the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction, development and implementation of take reduction plans for stocks that may be reduced or are being maintained below their optimum sustainable population levels due to interactions with commercial fisheries, and studies of pinniped-fishery interactions. The mortality of dolphins during tuna seining operations in the eastern tropical Pacific Ocean was a major impetus for passage of the MMPA in 1972, and it continues to be a major international issue which is dealt with under §104 of the MMPA.

The Act also provides that the Secretary shall allow the incidental, but not intentional, taking, by U.S. citizens engaged in activities other than commercial fishing (e.g., offshore oil and gas development), of small numbers of depleted as well as non-depleted marine mammals if, after notice and opportunity for public comment, the Secretary:

(i) finds that the total of such taking will have a negligible impact on the affected species or stock, and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses by Alaska Natives; and

(ii) prescribes regulations setting forth permissible methods of taking, and requirements for monitoring and reporting such taking." However, the 1994 Amendments provide that this regulation requirement may be waived provided that the proposed activity results in only harassment, and no serious injury or mortality is anticipated.

The Act's moratorium on taking does not apply to taking by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking is for subsistence purposes or for creating and selling authentic Native articles of handicrafts and clothing, and is not done in a wasteful manner. (12)

For FY95, \$12.623 million is authorized for MMPA activities other than stock assessments and implementation of the new regime on taking of marine mammals incidental to commercial fishing. For these additional activities, \$20 million is authorized for FY95. For FY95, \$2.314 million was appropriated for marine mammal research along with \$8 million for implementation of the 1994 Amendments to the Act.

Since the 1994 Amendments became law, NMFS has published several regulations to implement requirements under the Act. These include the general authorization for scientific research (59 *Federal Register* 50372, October 3, 1994), the prohibition on intentional lethal take in commercial fishing (60 *Federal Register* 6036, February 1, 1995), and a final rule prohibiting approaching closer than 100 yards to humpback whales in Hawaii (60 *Federal Register* 3775, January 19, 1995). Also, in response to a request from the State of Washington under the new §120, on January 4, 1995, NMFS authorized the intentional lethal taking of individually identifiable California sea lions that are adversely affecting the continued existence of a run of steelhead trout at Ballard Locks, Washington. In addition, NMFS has published a proposed list of fisheries using the criteria established by §118 of the MMPA (59 *Federal Register* 45263, September 1, 1994) and established Scientific Review Groups to review various aspects towards implementing this section of the law. In this regard, NMFS has made available for public

review the methodology for determining each marine mammal stock's Potential Biological Removal and the draft stock assessment reports. Final stock assessment reports are expected to be available in March 1995. In the late spring of 1995, NMFS anticipates publishing proposed regulations governing incidental takes by commercial fisheries under 6118 of the MMPA. In late 1994, NMFS held two public working sessions to discuss the draft regulations. Finally, as part of its public outreach program, NMFS's Office of Protected Resources publishes a *Marine Mammal Protection Act Bulletin* describing recent events concerning the implementation of the 1994 Amendments to the Act.

A total of 143 cases were made under the MMPA by NMFS enforcement personnel in 1994. These cases consisted mainly of illegal importations of marine mammal parts and products and illegal taking, including harassment, of marine mammals.

Marine Protection, Research, and Sanctuaries Act

Title II of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1441-1445; Title II of Pub. L. 92-532, as amended) authorizes research and monitoring related to ocean dumping as well as research on possible effects of pollution, overfishing, and human-induced changes of the ocean system. The Act provides for long-range research on the effects of human-induced changes to the marine environment and authorizes research and demonstration activities related to phasing out sewage and industrial waste dumping in the marine environment. The Department of Commerce, through NOM and NMFS, conducts comprehensive and continued monitoring and research programs on the possible long-range effects of pollution, overfishing, and human-induced changes of ocean ecosystems, including the scientific assessment of natural resource damages from petroleum spills. NOAA also monitors the environmental conditions at certain dumping sites. The Act requires the Department of Commerce to present an annual report to Congress on these monitoring and research activities.

For FY90, an amount not to exceed \$14.5 million was authorized for these research programs.

National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (97 Stat. 1409; Pub. L. 98-210, as amended) authorizes NMFS fisheries programs not otherwise authorized by law, including research to reduce entanglement of marine mammals in fishing gear, development of habitat restoration techniques, restoration of Chesapeake Bay, and conservation of Antarctic living marine resources.

For FY93, \$59.162 million was authorized for §2(a) -- information collection and analyses, \$35.594 million was authorized for §3(a) -- conservation and management operations, and \$18.838 million was authorized for §4(a) -- State and industry assistance programs.

Endnotes

1. Lennis L. Herburger, student intern from Lewis and Clark College, researched and wrote the draft of this report under the supervision of Eugene H. Buck, Senior Analyst in Natural Resources Policy.
2. However, either NMFS or the FWS may initiate a status review for a species without a petition for listing.
3. If there is substantial disagreement regarding the sufficiency or accuracy of available data,

this one-year period may be extended an additional six months.

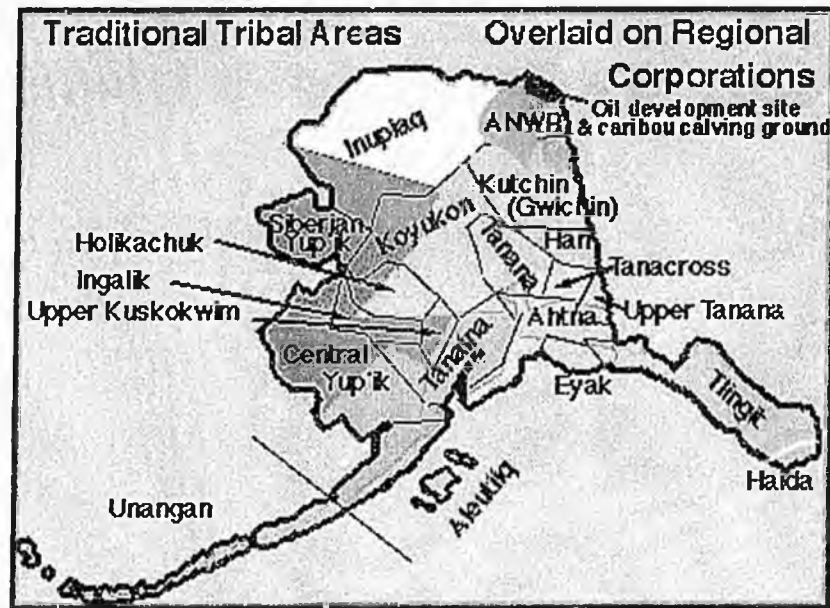
4. Presidential Proclamation 5030 -- Note that the EEZ excludes nearshore waters under State jurisdiction.
5. A "fishery" is a collection of harvesting operations using similar harvesting methods (*i.e.*, gear) to catch one or a group of closely related species of fish or shellfish.
6. §§2(1) and 2(2) of the Marine Mammal Protection Act.
7. A similar definition was also incorporated in the Endangered Species Act of 1973, Pub. L. 93-205.
8. This division of authority derives from agency responsibilities as they existed when the MMPA was enacted.
9. However, NMFS would retain authority over incidental taking in commercial fishing and taking for public display or scientific research purposes, except that Federal permits for removal of live animals from a State could not be issued if the proposed action was inconsistent with the State's program.
10. Permits for taking threatened or endangered species must also be obtained under the authority of the Endangered Species Act.
11. §101(a)(5)(A).
12. However, takes of depleted species or stocks may be regulated.



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NCSE



As the overlay shows, there is a rationale to the organization of Alaska's hundreds of Native communities into regional Native development companies. Roughly, the company regions correspond to traditional territories of the tribes. See (if willing to wait for slow load) slightly different territories on an [Alaska Native Education program languages map](#).

Five Landless Tlingit Tribes These tribes were left out of the Alaska native Claims settlement. They have no land, no right to subsistence fishing and hunting. Well-known Tlingit artist Jesse Cooday helped to design these pages, which contain a real (not as told to bzabytalk) traditional story by an elder. Don't forget the "What you can do" section.

Alaska's Towns and Villages ingenious database where you can look up much (all text) info. Not limited to Native villages, but there are so many of those they dominate the database. Get the names of the towns at this mapsite, look up info about them here.

Alaska's Native Cultures Once-over shallowly, by a tourist agency. No pix.



The Arctic National Wildlife Refuge -- a calving place for the last remaining large herd of caribou -- barely escaped being opened for oil and gas development by U.S. Congress in the fall of 1996. The issue will continue to arise, one presumes until permission is conferred and the wildlife refuge is invaded. Most of the environmental deiscussion of this ignored the viewpoints of those who will be most affected by disturbances to the herd's calving ground. For these people are

the Vuntut Gwich'in, who live above the Arctic Circle *in Canada*. International boundaries are meaningless to the animals, who make a great circle migration between the U.S. and Canada seasonally, every year.

- Old Crow -- Land of the Vuntut Gwichin This traditional tribe uses Internet to make a plea -- especially to U.S. citizens, the only ones who can do anything about it -- to protect the Porcupine herd's calving ground (the Arctic national Wildlife Refuge) from oil and gas development. Their plea takes the form of a personal, obviously unprofessional website showing how their lives still depend on these caribou.
- Arctic National Wildlife Refuge -- An Introduction Arctic Perspectives has a good collection of documents, historical survey, and maps. Unlike most of the environmentalists who covered this issue, Perspectives takes a look at Native viewpoints. This is a much slicker presentation (with better maps).
- Tanana Chiefs -- whose people are on one path that the returning caribou take -- oppose ANWR development, in a 1990 resolution
- Jacob Adams. Inuipiaq Arctic Slope regional development corporation native head, is in favor of development. We want our share, he says.
- ANWR -- CASE STUDY #1 by Arctic Circle, a support group for Native and environmental issues of the far north
- Time to Permit Drilling in ANWR sez a right-wing think-tank. Just a tiny handful of Indians stand in the way of progress here, and anyway, that oil-gas development that already went down in the Beaufort Sea was *good* for the smaller Central Caribou herd. His statistics about this are flat-out lies; elsewhere the herd was scientifically monitored, found to be decimated.

Point Hope is a historic Native community in Alaska. In the late 1950's, the Bureau of Land Management issued the Atomic Energy Commission (AEC) a license for a cockeyed and enormously dangerous scheme to use 1600 square miles around Point Hope to blast out a deep water seaport with nuclear explosives. No one ever consulted the village residents who would have to have been moved away for the blast (no environmental considerations either). In 1961, the president of the Point Hope Village Council wrote to the Association of American Indian Affairs (AAIA) a private foundation formed to help Indians. AAIA provided funds and coordination for inter-village meetings

at which rights were explained, and common solutions agreed upon. 12 regional associations of Alaska Natives were formed and began the legal process to pursue their land claims (resulting in the Alaska Native Claims Settlement of 1971). The small group of Native people of Point Hope, a remote and isolated Arctic village, played a very important role beyond the start of a land claims process for all the treatyless peoples of Alaska. Nuclear blasting in the seas of the fragile north, where currents circulate between the continents would have had incalculably dangerous environmental effects, probably much broader than on the ecology just of the far north, affecting the oceans, and perhaps worldwide weather and climate patterns. Point Hope began the action that stopped this -- but the area was then used as a dumping ground by the AEC for hazardous nuclear wastes. There are many indications this was an intentional experiment to try to discover the effects (i.e. how bad the effects would be) on the biota, including the Native people OF the area.

Case Study of Project Chariot -- here's the nitty-gritty, long article on the plans, the waste dumping 30 miles from the Point Hope Inupiat community, the supposed cleanup efforts. Arctic Circle has considerably streamlined their site, so this interesting material should now load in a reasonable time.

The Chukchi Sea Trading Company - Frames Inupiaq Women of Point Hope started this web project to sell their crafts -- such as baskets made of whale baleen, fossil mammoth ivory carvings. It's much more than a sales gallery; there's a town photo album of a whale feast, stories from elders, and many other things. Unfortunately these are quite hard to get at, in the inexperienced contractor's wildly busy non-functional frames presentation.



Profiles of Alaska Inuit-Aleut Communities -- Bristol Bay , AK villages Region Page by one of the regional development corporations.

Cook Inlet Tribal Council, Alaska. Not much info, tribal contacts, programs. Native Regional Development Corporation page.

- Chickaloon News from CIRI dissident shareholders , who are trying to muster enough other dissidents -- they mention many shareholders live in the Lower 48 -- to

change present management, apparently they want larger cash payments, or to break up the entity and distribute its assets (land) in cash. The website is so in-groupy (I might be one of the few who can recognize what the initials CIRI stand for; there is a great deal of other unexplained minutiae) it's doubtful they'll succeed. There is no news or background here, misleadingly named site is of interest only to Cook Inlet and Kenai Peninsula CIRI shareholders.

Chugach Regional Company's server: they appear to be trying to be access providers. the server contains alaska JobNet, a shopping mall, and that's about it.

Alaska North Slope Borough School district Website They do a lot of distance education necessarily. Many of the communities are entirely or largely Inupiaq students

- Ipalook School -- Ryan Miller's 5th grade Check out the kids' caribou project and their ANWR text of a Native visitor to their class (who unlike Adams, opposes the development of ANWR).

Nuniamit Pass School History web project -- photos, current writing and journalism by the students.

Alaska Online: project of 200 students at D'zantiki Heeni (Tlingit) middle school, Juneau, interesting pages with student work, reportage, art.

Alaska Native Education at Lathrop High (Fairbanks). 120 students -- including some from tribes far south -- participate in the program. They researched Alaska Native tribes and posted pages of info and links about several of them

STORIES, ART, CULTURE

The Origin of Light (Alaska Inuit) -- Australian server world stories/myths collection. Submitted in 1995 by students from the Alaska Native Network (Inuit), managed by Laura Thorpe.

Marie Oldfield. Tsimshian-Haida demonstrates craft with some of her paintings and drawings on show here

A Story of a Shaman Anthros can make just about anything dull.

Shamanism -- bunch of anthros academic writings fed through the grinding mill of a PR person for tourism. The word 'shaman' doesn't exist in any Indian or Native language; anmthros made it up.

[Two Old women: A Legend of Courage and Survival](#) -- Book review.

[The Inupiat Eskimo of Arctic Alaska](#) -- Ethnographic Portraits from Arctic Circle cultural materials

[Tlingit Dancers](#) Brief interview with two of them about the meanings of dances, the outfits, etc. No pix.

[Tlingit carving](#) related to Northwest Coast history. No pix.

[Native Alaskan Plants and their uses](#), high-school botany student work

[The inside Passage Boat trip](#) along the skinny southern panhandle of Alaska, with some shallow Indian info about Tlingit, Haida and other NWC tribes. No pix.



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CREDITS: I made maps, icons and other graphics used on these pages, using source material from "America Indian Reservations and Trust Areas," V.E. Tiller, Economic Development Administration, U.S. Department of Commerce, 1996. Also very useful were the articles on Alaska Natives -- history, claims, organization of the regional development corporations -- in the encyclopedia **Native America in the 20th Century**, ed Mary B. Davis, Garland, NY: 1994, 1996.

Last Updated: 4/25/97

House Resources Committee
Drew Scalzi, Beverly Masek , co-chairs

Re; HB206
Testimony of Paul Seaton, 58395 Bruce Street, Homer AK 99603,
Ph907 2356342
April 3, 2001

Thank you Mr. Scalzi for the invitation to submit written comments prior to the consideration of HB 206 by the committee. I also include in this written testimony points that were discussed at the Fisheries Committee consideration of this bill.

When limited entry was introduced in 1973 the complexion of the industry was much the same as is stated by proponents of this bill for the necessity for vessel owner, corporate, permits. That is, the corporate canneries owned most of the salmon drift vessels in Cook Inlet and Bristol Bay. The argument is that the investment was by the vessel owner corporation [salmon canneries]. Now the same argument is that the investment is by vessel owner corporations [and processors] for scallops. The only difference is that the salmon canneries owned a fleet of small boats while the scallop corporations own one, or several, larger boats. The State specifically decided to empower the fishermen and not the investor by only granting limited entry permits to natural persons who must be actively involved in the harvest. This decision determined the course of development of the Alaskan fisheries, led to a now owner operated fleet, and a move away from corporate control by absentee owners of the lives of fishermen.

I therefore take strong exception to the assertion in the Sponsor Statement "...it would award ongoing fishing privileges to many who have worked essentially as hired crew, and not to those who have invested in the fishery." That statement implies that the State was wrong in empowering fishermen. I have no doubt that if this provision had been included in the original plan it would have been voted down in 1973, as it should be now.

Although the point of this testimony is not to present alternatives to accomplish the findings for the bill, I wish to point out that the situation has greatly changed since the original moratorium was enacted. At that time there was no way to limit entry into the federal fisheries which are the predominate subject of this bill. Now, the Federal License Limitation Program (LLP) is in place for groundfish and crab fisheries. This program allows designation by gear type, area, and species endorsements. So a simple solution is to have the members of these industries petition the North Pacific Fisheries Management Council to add a species and possibly area endorsement based on past participation to the current LLPs. The need for State action no longer exists to accomplish their desired goals.

Pg 1 of 3

This in no way affects the ability of the State to manage those fisheries for the NPFMC as its management designee. In fact, the State currently manages all Bering Sea crab fisheries but any participant in those federal waters is required to have a federal crab LLP. That system works well and no one is suggesting that the State needs to superimpose another State Limited Entry Permit in order to have the ability to manage that huge fishery.

HB 206

I dispute the validity of the FINDINGS 1 and 2.

I dispute FINDING 5. I give as example the State water sablefish fisheries on the North Gulf Coast and the Aleutian Islands. The federal vessel owner based system exists side by side with a State waters fishery that has proven to be very manageable and beneficial to small coastal Alaskan vessels from our local communities.

I give as further example the State waters Pacific cod fishery which exists in five management areas and regulates up to 25% of the Gulf of Alaska total allowable catch – determined jointly for federal and State waters. This exists alongside the federal waters vessel LLP but uses gear restriction, vessel size, and sometimes-different seasons and has been the greatest fishery boon to coastal communities and small boat fishermen for extended opportunity along the entire Gulf coast. The Board of Fishery developed this fishery predominately in response to the detrimental effects of the vessel-owner based systems developed for federal waters. We should not inflict those same type problems on our coastal fishermen by being co-opted into mirroring the federal system from which our fishermen seek relief.

ARTICLE 6A,

Sec.16.43.460 page 5 lines 3 – 6.

I cannot believe that this substitution clause remain intact –only allowing substitution if the original vessel was lost. If a corporation removed one vessel and used another, do they loose all claims, or do they have to sink the vessel. I do not see the point in this since after permit issuance the vessel owner can transfer his permit to a larger, more powerful, vessel without restriction by Sec.16.43.490.

Sec.16.43.470 line 15 - 17. (2) "promote" (B) "broad access to the fishery;"

This is the exact opposite of the true goal of this bill, to restrict access to the narrowest number of vessels. It underlies a rejection of the using of area fished by the operator to restrict expansion of effort while allowing past operators to get their own vessel for fishing one area. [To better explain this consider the scallop vessel that used several operators per year. Generally an operator has expertise in an area, Southeast, Kodiak, etc. If the permit was by area to the fisherman (operator), the state might

issue 4 permits but each would be for the one area that operator fished and thus the 4 permits would still just let one vessel fish the whole state – or over time this might turn into 4 smaller local vessels fishing scallops in only one area each.]

Sec. 16.43.480 page 6 line 10 – 13.

This requires the purchaser of a permit to buy that particular vessel as well as the permit. This does not make any sense. If a person had multiple uses of his vessel, he could never sell his permit and remain fishing.

The ownership provisions in the federal system have proven to be totally ineffective. At first people "sold" 1% of their vessel to IFQ holders so they could harvest the IFQ shares without the 'owner' being on-board. Then the NPFMC raised the limit to 20%, but it is just a name and number on paper and can be added and removed for the \$150 documentation fee. This owner provision is the subject of great abuse in the federal system. If they can't make it work I don't know why the State will have any better success with the same provision.

(b) line 14

As stated by the CFEC, most of the vessels currently in question are corporate owners. Though the permit cannot be sold to another entity, the entire corporation can be acquired by a holding corporation and thus enable relatively easy transfer without the State ever knowing. If for some reason they are 'caught' the penalty on line 22 is that the permit is transferred back to the original entity.

If you want this system to go towards fisherman (owner-operator) as the bill purports for the future, any transfer to another vessel or other owner should trigger the 'only to a natural person' who must be on board provision.

SEC 16.43.490 p 7, line 11 – 24

As stated above, this provision should be entirely eliminated. If the intent is to ease this fleet into owner-operator status as stated in the Sponsor Statement and declarations by CFEC, granting such provision for the life of the vessel or until a person or vessel removes from the fishery in question is ample allowance. This provision would allow the existing corporate complexion of the fleet to continue indefinitely. Granting the vessel an absentee owner permit for the qualifying vessel's life only (without exception for loss, fire, sale etc) is a generous compromise to this corporate fleet and no substitutions should be allowed at all.

I am opposed to HB206 as unnecessary and as anathema to the State's explicit provisions to empower fishermen, and believe the consequences of adoption of HB206 would negatively influence many fisheries throughout Alaska.

Paul K. Seaton

19383

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House Resources Committee
Drew Scalzi, Beverly Masek , co-chairs

Re; HB206
Testimony of Paul Seaton, 58395 Bruce Street, Homer AK 99603,
Ph907 2356342
April 3, 2001

Thank you Mr. Scalzi for the invitation to submit written comments prior to the consideration of HB 206 by the committee. I also include in this written testimony points that were discussed at the Fisheries Committee consideration of this bill.

When limited entry was introduced in 1973 the complexion of the industry was much the same as is stated by proponents of this bill for the necessity for vessel owner, corporate, permits. That is, the corporate canneries owned most of the salmon drift vessels in Cook Inlet and Bristol Bay. The argument is that the investment was by the vessel owner corporation [salmon canneries]. Now the same argument is that the investment is by vessel owner corporations [and processors] for scallops. The only difference is that the salmon canneries owned a fleet of small boats while the scallop corporations own one, or several, larger boats. The State specifically decided to empower the fishermen and not the investor by only granting limited entry permits to natural persons who must be actively involved in the harvest. This decision determined the course of development of the Alaskan fisheries, led to a now owner operated fleet, and a move away from corporate control by absentee owners of the lives of fishermen.

I therefore take strong exception to the assertion in the Sponsor Statement "...it would award ongoing fishing privileges to many who have worked essentially as hired crew, and not to those who have invested in the fishery." That statement implies that the State was wrong in empowering fishermen. I have no doubt that if this provision had been included in the original plan it would have been voted down in 1973, as it should be now.

Although the point of this testimony is not to present alternatives to accomplish the findings for the bill, I wish to point out that the situation has greatly changed since the original moratorium was enacted. At that time there was no way to limit entry into the federal fisheries which are the predominate subject of this bill. Now, the Federal License Limitation Program (LLP) is in place for groundfish and crab fisheries. This program allows designation by gear type, area, and species endorsements. So a simple solution is to have the members of these industries petition the North Pacific Fisheries Management Council to add a species and possibly area endorsement based on past participation to the current LLPs. The need for State action no longer exists to accomplish their desired goals.

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This in no way affects the ability of the State to manage those fisheries for the NPFMC as its management designee. In fact, the State currently manages all Bering Sea crab fisheries but any participant in those federal waters is required to have a federal crab LLP. That system works well and no one is suggesting that the State needs to superimpose another State Limited Entry Permit in order to have the ability to manage that huge fishery.

HB 206

I dispute the validity of the FINDINGS 1 and 2.

I dispute FINDING 5. I give as example the State water sablefish fisheries on the North Gulf Coast and the Aleutian Islands. The federal vessel owner based system exists side by side with a State waters fishery that has proven to be very manageable and beneficial to small coastal Alaskan vessels from our local communities.

I give as further example the State waters Pacific cod fishery which exists in five management areas and regulates up to 25% of the Gulf of Alaska total allowable catch – determined jointly for federal and State waters. This exists alongside the federal waters vessel LLP but uses gear restriction, vessel size, and sometimes-different seasons and has been the greatest fishery boon to coastal communities and small boat fishermen for extended opportunity along the entire Gulf coast. The Board of Fishery developed this fishery predominately in response to the detrimental effects of the vessel-owner based systems developed for federal waters. We should not inflict those same type problems on our coastal fishermen by being co-opted into mirroring the federal system from which our fishermen seek relief.

ARTICLE 6A,

Sec.16.43.460 page 5 lines 3 – 6.

I cannot believe that this substitution clause remain intact –only allowing substitution if the original vessel was lost. If a corporation removed one vessel and used another, do they loose all claims, or do they have to sink the vessel. I do not see the point in this since after permit issuance the vessel owner can transfer his permit to a larger, more powerful, vessel without restriction by Sec.16.43.490.

Sec.16.43.470 line 15 - 17. (2) "promote" (B) "broad access to the fishery;"

This is the exact opposite of the true goal of this bill, to restrict access to the narrowest number of vessels. It underlies a rejection of the using of area fished by the operator to restrict expansion of effort while allowing past operators to get their own vessel for fishing one area. [To better explain this consider the scallop vessel that used several operators per year. Generally an operator has expertise in an area, Southeast, Kodiak, etc. If the permit was by area to the fisherman (operator), the state might

issue 4 permits but each would be for the one area that operator fished and thus the 4 permits would still just let one vessel fish the whole state - or over time this might turn into 4 smaller local vessels fishing scallops in only one area each.]

Sec. 16.43.480 page 6 line 10 - 13.

This requires the purchaser of a permit to buy that particular vessel as well as the permit. This does not make any sense. If a person had multiple uses of his vessel, he could never sell his permit and remain fishing.

The ownership provisions in the federal system have proven to be totally ineffective. At first people "sold" 1% of their vessel to IFQ holders so they could harvest the IFQ shares without the 'owner' being on-board. Then the NPFMC raised the limit to 20%, but it is just a name and number on paper and can be added and removed for the \$150 documentation fee. This owner provision is the subject of great abuse in the federal system. If they can't make it work I don't know why the State will have any better success with the same provision.

(b) line 14

As stated by the CFEC, most of the vessels currently in question are corporate owners. Though the permit cannot be sold to another entity, the entire corporation can be acquired by a holding corporation and thus enable relatively easy transfer without the State ever knowing. If for some reason they are 'caught' the penalty on line 22 is that the permit is transferred back to the original entity.

If you want this system to go towards fisherman (owner-operator) as the bill purports for the future, any transfer to another vessel or other owner should trigger the 'only to a natural person' who must be on board provision.

SEC 16.43.490 p 7, line 11 - 24

As stated above, this provision should be entirely eliminated. If the intent is to ease this fleet into owner-operator status as stated in the Sponsor Statement and declarations by CFEC, granting such provision for the life of the vessel or until a person or vessel removes from the fishery in question is ample allowance. This provision would allow the existing corporate complexion of the fleet to continue indefinitely. Granting the vessel an absentee owner permit for the qualifying vessel's life only (without exception for loss, fire, sale etc) is a generous compromise to this corporate fleet and no substitutions should be allowed at all.

I am opposed to HB206 as unnecessary and as anathema to the State's explicit provisions to empower fishermen, and believe the consequences of adoption of HB206 would negatively influence many fisheries throughout Alaska.

Paul K. Seaton

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