

HB

392



ALASKA STATE LEGISLATURE

**PLEASE BRING HB286
PACKET TO MEETING
TOMORROW – ALONG
W/THIS CS**

REPRESENTATIVE DREW SCALZI
State Capitol, Juneau
Alaska 99801-1182

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Email: Representative_Drew_Scalzi@legis.state.ak.us

February 21, 2002

To: Members, House Resources Committee

From: Rep. Drew Scalzi

Re: Committee Substitute for HB286

Attached please find a committee substitute for HB286 to be heard tomorrow, Friday, Feb. 22, in House Resources.

The three changes (underlined in your copy) are:

- Page 1, line 8, shall to may
- Page 7, lines 20 & 21; fishery assessment collection changed from quarterly to monthly to be consistent with collection of ASMI and salmon enhancement taxes
- Page 8, line 9, shall to may

Thank you.

cc: Peg Warren, LIO

CS FOR HOUSE BILL NO. 286()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES SCALZI, Fate

A BILL
FOR AN ACT ENTITLED

1 "An Act allowing a person to hold two commercial fishing entry permits for a salmon
2 fishery for the purpose of consolidating the fishing fleet for a salmon fishery; relating to
3 salmon fishery associations and to salmon fishery assessments; and providing for an
4 effective date."

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

6 * Section 1. AS 16.40 is amended by adding a new section to read:

7 Article 5. Salmon Fishery Associations.

8 Sec. 16.40.250. Salmon fishery associations. The commissioner may assist
9 in and encourage the formation of qualified salmon fishery associations for the
10 purpose of promoting the consolidation of the fishing fleet in a salmon fishery for
11 which the Alaska Commercial Fisheries Entry Commission has issued commercial
12 fishing entry permits under AS 16.43. A salmon fishery association is qualified if the
13 commissioner determines that the regional association

14 (1) is incorporated as a nonprofit corporation under AS 10.20;

1 (2) represents interim-use permit and entry permit holders who
2 participate in the salmon fishery for which the association is established; and

3 (3) has a board of directors that is representative of interim-use permit
4 and entry permit holders who fish in the salmon fishery.

5 Sec. 2. AS 16.43.140(c) is amended to read:

6 (c) A person may hold more than one interim-use or entry permit issued or
7 transferred under this chapter only for the following purposes:

8 (1) fishing more than one type of gear;

9 (2) fishing in more than one administrative area;

10 (3) harvesting particular species for which separate interim-use or
11 entry permits are issued;

12 (4) if authorized by regulations of the commission, fishing an entire
13 unit of gear in a fishery in which the commission has issued entry permits for less than
14 a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold
15 more than two entry permits for a fishery; however, the person may not

16 (A) fish more than one unit of gear in the fishery; or

17 (B) acquire a second entry permit for the fishery after the
18 person has acquired an entry permit that authorizes the use of an entire unit of
19 gear in the fishery;

20 (5) consolidation of the fishing fleet for a salmon fishery; however,
21 a person may hold not more than two entry permits for a salmon fishery under
22 this paragraph, but the person who holds two entry permits for a salmon fishery
23 may not engage in fishing under the second entry permit.

24 * Sec. 3. AS 37.05.146(b)(4)(AA) is amended to read:

25 (AA) dive fishery management assessment receipts
26 (AS 43.76.150) and salmon fishery assessment receipts (AS 43.76.220);

27 * Sec. 4. AS 43.76 is amended by adding new sections to read:

28 **Article 4. Salmon Fishery Assessment.**

29 **Sec. 43.76.220. Salmon fishery assessment.** (a) A salmon fishery
30 assessment shall be levied on the value of the salmon sold in a salmon fishery. The
31 rate of the assessment, not to exceed five percent, shall be determined by an election

1 under AS 43.76.230.

2 (b) A salmon fishery assessment may only be levied or collected on salmon
3 sold in a fishery if

4 (1) there exists in the administrative area in which the fishery occurs
5 an association determined by the commissioner of fish and game to be a qualified
6 salmon fishery association under AS 16.40.250; and

7 (2) the rate of the salmon fishery assessment is determined by an
8 election under AS 43.76.230.

9 **Sec. 43.76.230. Election to approve, amend, or terminate salmon fishery**
10 **assessment.** (a) A qualified salmon fishery association may conduct an election
11 under this section after the commissioner of fish and game approves

12 (1) the notice to be published by the qualified salmon fishery
13 association; the notice must state that all salmon sold in the fishery are subject to the
14 salmon fishery assessment and the rate of the salmon fishery assessment to be
15 approved, amended, or terminated at the election;

16 (2) the ballot to be used in the election; and

17 (3) the registration and voting procedure for the approval, amendment,
18 or termination of the salmon fishery assessment.

19 (b) The salmon fishery assessment is levied under AS 43.76.220 in a fishery
20 on the effective date stated on the ballot if

21 (1) the assessment is approved by a two-thirds majority vote of the
22 eligible interim-use permit and entry permit holders in the fishery; and

23 (2) the election results are certified by the commissioner of fish and
24 game.

25 (c) In conducting an election under this section, a qualified salmon fishery
26 association shall adopt the following procedures:

27 (1) the qualified salmon fishery association for the fishery shall make
28 copies of the articles of incorporation and bylaws of the association available to all
29 interim-use permit and entry permit holders in the fishery;

30 (2) the qualified salmon fishery association for the fishery shall hold at
31 least one public meeting not less than 30 days before the date on which ballots must be

1 postmarked to be counted in the election to explain, as appropriate, the reason for
2 approval or amendment of the proposed salmon fishery assessment, the reason for the
3 proposed rate of the salmon fishery assessment, or the reason for termination of the
4 salmon fishery assessment, and to explain the registration and voting procedure to be
5 used in the election; the qualified salmon fishery association shall provide notice of
6 the meeting by

7 (A) mailing the notice to each eligible interim-use permit and
8 entry permit holder;

9 (B) posting the notice in at least three public places in the
10 administrative area in which the fishery occurs; and

11 (C) publishing the notice in at least one newspaper of general
12 circulation in the administrative area in which the fishery occurs at least once a
13 week for two consecutive weeks before the meeting;

14 (3) the qualified salmon fishery association shall mail two ballots to
15 each eligible interim-use permit and entry permit holder; the first ballot shall be
16 mailed not more than 45 days before the date ballots must be postmarked to be
17 counted in the election; the second ballot shall be mailed not less than 15 days before
18 the date ballots must be postmarked to be counted in the election; the qualified salmon
19 fishery association shall adopt procedures to ensure that only one ballot from each
20 eligible interim-use permit and entry permit holder is counted in the election;

21 (4) the ballot must

22 (A) state that all salmon sold in the fishery are subject to the
23 salmon fishery assessment;

24 (B) state the rate of the assessment to be levied under
25 AS 43.76.220;

26 (C) ask the question whether the salmon fishery assessment
27 addressed on the ballot shall be approved, amended, or terminated, as
28 appropriate;

29 (D) indicate the fishery for which the salmon fishery
30 assessment will be levied or terminated;

31 (E) provide an effective date for the approval, amendment, or

1 termination of the salmon fishery assessment; and

2 (F) indicate the date on which returned ballots must be
3 postmarked in order to be counted;

4 (5) the ballots shall be returned by mail and shall be counted by an
5 auditor selected by the qualified salmon fishery association and approved by the
6 commissioner of fish and game; the qualified salmon fishery association shall pay the
7 costs of counting the ballots.

8 (d) The commissioner of fish and game shall certify the results of an election
9 under this section if the commissioner determines that the requirements of (a) and (c)
10 of this section have been satisfied.

11 (e) A qualified salmon fishery association may employ or contract with
12 another person to administer an election under this section subject to the supervision
13 of the association.

14 (f) Except as otherwise provided under AS 43.76.240 and 43.76.250, an
15 election to amend the rate of a salmon fishery assessment or to terminate a salmon
16 fishery assessment shall be conducted under the same procedures established under
17 (a), (c), and (d) of this section for an election to approve a salmon fishery assessment.

18 (g) In this section, "eligible interim-use permit and entry permit holder" means
19 an individual who, 90 days before the date ballots must be postmarked to be counted
20 in an election under this section, is listed in the records of the Alaska Commercial
21 Fisheries Entry Commission as the legal holder of an interim-use permit for salmon
22 fishing gear or an entry permit for salmon fishing gear that authorizes the individual to
23 fish commercially in the salmon fishery for which the salmon fishery assessment is to
24 be approved, amended, or terminated.

25 **Sec. 43.76.240. Amendment of salmon fishery assessment.** (a) The rate of
26 the salmon fishery assessment levied on salmon under AS 43.76.220 may be amended
27 by the commissioner of revenue upon a two-thirds majority vote at an election held
28 under AS 43.76.230 among the eligible permit holders for the fishery in which the
29 salmon fishery assessment is levied.

30 (b) The commissioner of revenue shall amend the rate of a salmon fishery
31 assessment under (a) of this section following an election among the eligible permit

1 holders for the fishery if

2 (1) a petition that is signed by at least 25 percent of the interim-use
3 permit and entry permit holders in the fishery that is the subject of the petition is
4 presented to the commissioner of fish and game requesting amendment of the rate of
5 the salmon fishery assessment; the petition must state the proposed rate of the salmon
6 fishery assessment to be levied under AS 43.76.220; only a person who holds an
7 interim-use permit or entry permit for the fishery at the time of signing the petition
8 may validly sign the petition;

9 (2) an election is held in accordance with AS 43.76.230; the ballot
10 must ask the question whether the salmon fishery assessment on salmon sold in the
11 fishery shall be amended and must state the salmon fishery assessment to be levied
12 under AS 43.76.220 if the assessment is amended; the ballot must be worded so that a
13 "yes" vote is for amendment of the salmon fishery assessment and a "no" vote is for
14 continuation of the current salmon fishery assessment;

15 (3) a two-thirds majority of the eligible interim-use permit and entry
16 permit holders in the fishery casts a ballot for the amendment of the salmon fishery
17 assessment; in this paragraph, "eligible interim-use permit and entry permit holder"
18 has the meaning given in AS 43.76.230; and

19 (4) the qualified salmon fishery association provides notice of the
20 election in accordance with AS 43.76.230 within six months after receiving notice
21 from the commissioner of fish and game that a valid petition under (1) of this
22 subsection has been received.

23 **Sec. 43.76.250. Termination of salmon fishery assessment.** (a) The salmon
24 fishery assessment levied under AS 43.76.220 shall be terminated by the
25 commissioner of revenue upon a two-thirds majority vote at an election held under
26 AS 43.76.230 among the eligible permit holders for the fishery in which the salmon
27 fishery assessment is levied.

28 (b) The commissioner of revenue shall terminate a salmon fishery assessment
29 under (a) of this section following an election among the eligible permit holders for
30 the fishery if

31 (1) a petition that is signed by at least 25 percent of the interim-use

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permit and entry permit holders in the fishery that is the subject of the petition is presented to the commissioner of fish and game requesting termination of the salmon fishery assessment; only a person who holds an interim-use permit or entry permit for the fishery at the time of signing the petition may validly sign the petition;

(2) an election is held in accordance with AS 43.76.230; the ballot must ask the question whether the salmon fishery assessment shall be terminated; the ballot must be worded so that a "yes" vote is for continuation of the salmon fishery assessment and a "no" vote is for termination of the salmon fishery assessment;

(3) a two-thirds majority of the eligible interim-use permit and entry permit holders in the fishery casts a ballot for the termination of the salmon fishery assessment; in this paragraph, "eligible interim-use permit and entry permit holder" has the meaning given in AS 43.76.230; and

(4) the qualified salmon fishery association provides notice of the election in accordance with AS 43.76.210 within six months after receiving notice from the commissioner of fish and game that a valid petition under (1) of this subsection has been received.

Sec. 43.76.260. Collection of assessment. (a) A buyer who acquires salmon that is subject to a salmon fishery assessment levied under AS 43.76.220 shall collect the salmon fishery assessment at the time of purchase and shall remit the total salmon fishery assessment collected during each month to the department by the last day of the next month.

(b) A buyer who collects the salmon fishery assessment shall maintain records of the value of salmon that is subject to the assessment that is purchased in each salmon fishery of the state.

(c) The owner of salmon removed from the state is liable for payment of the salmon fishery assessment levied under AS 43.76.220 if, at the time the salmon is removed from the state, the assessment payable on the salmon has not been collected by a buyer. If the owner of the salmon is liable for payment of the salmon fishery assessment under this subsection, the owner shall comply with the requirements under (a) and (b) of this section to remit the assessment to the department and to maintain records.

Consistent w/ ASMI Salmon enhancement



1 (d) The salmon fishery assessment collected under this section shall be
2 deposited in the state treasury.

3 **Sec. 43.76.270. Funding for qualified salmon fishery associations.** (a) The
4 legislature may make appropriations of revenue collected under AS 43.76.260 to the
5 Department of Fish and Game for funding of the qualified salmon fishery association
6 for the fishery in which the assessment was collected. Funds received under this
7 section by a qualified salmon fishery association may be expended in accordance with
8 the annual operating plan developed under (b) of this section.

9 (b) The Department of Fish and Game may assist a salmon fishery association
10 in developing an annual operating plan. The annual operating plan must describe the
11 activities for which the association intends to expend the funding received under this
12 section, including consolidation of the fishing fleet in the salmon fishery, financial
13 assistance to permit holders in the fishery to promote consolidation of the fishing fleet
14 for the fishery, and administrative activities of the association.

15 (c) A qualified salmon fishery association receiving funding under this section
16 shall submit an annual report to the Department of Fish and Game and to the members
17 of the association describing the activities of the association and how those activities
18 are consistent with the articles of incorporation and bylaws of the association.

19 (d) This section does not establish a dedication of a state tax or license.

20 (e) This section does not restrict or qualify the authority of the Department of
21 Fish and Game or the Board of Fisheries under AS 16.

22 **Sec. 43.76.280. Definitions.** In AS 43.76.220 - 43.76.280,

23 (1) "administrative area" means an area established by the Alaska
24 Commercial Fisheries Entry Commission under AS 16.43.200 for regulating and
25 controlling entry into salmon fisheries;

26 (2) "buyer" has the meaning given in AS 43.76.040;

27 (3) "fishery" has the meaning given in AS 16.43.990;

28 (4) "qualified salmon fishery association" means an association that is
29 qualified under AS 16.40.250;

30 (5) "salmon" means salmon sold under the authority of a limited entry
31 permit or interim-use permit issued under AS 16.43 for salmon;

1 (6) "sold" means the transfer of ownership of salmon from an interim-
2 use permit or entry permit holder to a buyer at the first point of sale;

3 (7) "value" has the meaning given in AS 43.75.290.

4 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



UNITED FISHERMEN OF ALASKA

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February 20, 2002

Representative Drew Scalzi
Representative Beverly Masek
Co-Chairs
House Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: HB 286 Ownership Of More Than One Fishery Permit

Dear Co-Chairs:

United Fishermen of Alaska supports passage of this bill to allow fishery permit stacking for the purpose of fleet reduction. Specifically, we support allowing:

- A natural person to own up to two permits in a salmon fishery
- Formation of regional non-profit associations to facilitate funding.
- A 2/3 majority vote by permit holders to authorize a self assessment of up to 5% of ex-vessel value

As you are aware, the Alaska salmon industry is facing challenges due to imports of farmed fish, the value of the Japanese yen, the lagging Japanese economy, and inefficiencies in the present harvesting structure. It is important that fishermen have a self-directed means of removing excess capacity without the use of state funds and in a manner that is constitutionally viable.

We discussed expanding this permit-stacking program to fisheries other than salmon, but do not feel there has been adequate discussion with other non-salmon fisheries of this option at the present time.

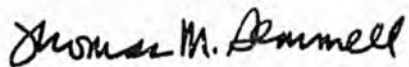
MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • At-sea Processors Association • Bristol Bay Reservo
Chignik Regional Aquaculture Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association
Copper River Salmon Producers Association • Cordova District Fishermen United • Douglas Island Pink and Chum
Kona Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Selnors Association • North Pacific Fisheries Association
Northern Southeast Regional Aquaculture Association • Old Harbor Fisherman's Association • Polarsburg Vessel Owners Association
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Selnors Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters

The twenty-nine member groups of UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Thomas M. Gemmell".

Thomas M. Gemmell
Executive Director



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement

HB 392 – “An Act relating to the use and appropriation of water.”

Alaska produces vast amounts of fresh water, a fact that the founding fathers of state government took into account when they wrote the constitution. In Article VIII, Sec. 13, they proscribed the use of the surface and subsurface waters, setting up a framework that is the basis for state laws and regulations that have been enacted over the years.

However, the management of the peoples' use and access to their water has become unwieldy, cumbersome and inefficient. HB 392 seeks to give direction to the Department of Natural Resources and correct some of the inefficiencies.

First, the bill removes a \$50 per year fee DNR currently charges for processing water use permits, even when there is no change to the permit holder's usage. It is the sponsor's view that if the permit holder seeks to increase usage or add a new well, for example, a permit fee would then more accurately reflect the work DNR would be required to do.

Second, HB 392 adds agricultural use of water as the second priority, after domestic usage, to assure the agricultural community that farmers will have access to the irrigation their crops will need.

Third, the bill adds a definition for what constitutes “significant use” to mean the use of one million gallons per day or more for 100 consecutive days in a calendar year. It also allows for the renewal of a permit of up to five years for significant use of water.

Finally, HB 392 seeks to provide an efficiency for temporary water users who often do not get their permits until after the water was needed. For example, a contractor who needs water to keep dust under control at a road construction site may not get his permit for the water until weeks after it would have been needed. HB 392 permits the temporary use unless the commissioner takes an action to deny it.

Alaska holds an exceedingly valuable resource in its fresh water, which will be more in demand in the future. HB 392 will help to lay the groundwork for a modern, efficient management regime for our state's water.



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sectional Summary

HB 392 – “An Act relating to the use and appropriation of water.”

Sec. 1. amends the bill passed last year to remove the \$50 annual water conservation fee, and prohibits the commissioner of DNR from charging a fee for an application, permit or certificate unless the water user makes changes to his or her water usage.

Sec. 2 amends existing law that proscribes preference in granting permits. This change would put domestic water use first, agricultural and irrigation second, and other uses third, based on the most beneficial use proposed.

Sec. 3 adds language to allow for the renewal of a permit to use a significant amount of water for up to five years, if the factors considered when the permit was first issued are still relevant.

Sec. 4 adds a provision relating to applications for temporary use of water, that would automatically allow the use that has been applied for, unless the commissioner acts to deny the application.

Sec. 5 defines “significant amount of water” as one million gallons per day for 100 consecutive days in a calendar year.