

SCOMM

126:20

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

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

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						
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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
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

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House Resources Committee

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

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.

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.

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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 (HB 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

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
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