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**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 2/16/04

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3-8-04

Resources Committee considered      SENATE BILL NO. 347

**SB 347 GULF OF ALASKA GROUND FISH MORATORIUM**

"An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to the establishment of a moratorium on entry of new vessels into state groundfish fisheries in the Gulf of Alaska and adjacent state marine water; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 347 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
F&G	3/5/04	✓			

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	No REC	AMEND
<i>Thomas H. Sawyer</i>	✓			
<i>Debra A. ...</i>			✓	
<i>Ben ...</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>				

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSSB347(RES)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 3/5/04 5:00 PM Dept. Affected: Fish and Game  
Title: An Act relating to the moratoria on entry of new RDU Comm. Fish Entry Commission  
participants or vessels into commercial fishery Component: Commercial Fisheries Entry Commission  
Sponsor: Senator Ben Stevens  
Requester: Senator Ben Stevens by request Component No. 471

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	8.0	5.0	5.0	5.0	0.0	0.0
Contractual	32.8	3.0	3.0	3.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>40.8</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>136.0</b>	<b>136.0</b>	<b>136.0</b>	<b>136.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1156 Receipt Supported Services	40.8	8.0	8.0	8.0	0.0	0.0
<b>TOTAL</b>	<b>40.8</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Implementation of the groundfish moratorium established by SB347 will require modification to CFEC's licensing system. For the first year only, programmer contractual costs are estimated at \$28.8. Additional costs for new forms, postage, long distance charges, and records archive retrievals, travel for adjudicatory hearings, groundfish management and planning meetings and research and preparation of proposals required under 16.43.908(k) are estimated to be \$12.0 for the first year and \$8.0 yearly through FY2008.

Revenue projections assume that the number of annual moratorium vessel permit renewals will equal the average number of vessels that participated in 1998-2003.

Prepared by: Shirley Penrose, Administrative Officer  
Division: Commercial Fisheries Entry Commission  
Approved by: Mary McDowell, Commissioner  
Agency: Commercial Fisheries Entry Commission

Phone 907-790-6960  
Date/Time 3/5/04 5:00 PM  
Date 3/5/2004

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB0347A  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title An Act relating to the moratoria on entry of new RDU Comm. Fish Entry Commission  
participants or vessels into commercial fishery Component Commercial Fisheries Entry  
Sponsor Senator Ben Stevens Commission  
Requester Senator Ben Stevens by request Component No. 471

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	8.0	5.0	5.0	5.0	0.0	0.0
Contractual	32.8	3.0	3.0	3.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>40.8</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	244.5	244.5	244.5	244.5	0.0	0.0
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1156 Receipt Supported Services	40.8	8.0	8.0	8.0	0.0	0.0
<b>TOTAL</b>	<b>40.8</b>	<b>8.0</b>	<b>8.0</b>	<b>8.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

### POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

### ANALYSIS: *(Attach a separate page if necessary)*

Implementation of the groundfish moratorium established by SB347 will require modification to CFEC's licensing system. For the first year only, programmer contractual costs are estimated at \$28.8. Additional costs for new forms, postage, long distance charges, and records archive retrievals, travel for adjudicatory hearings, groundfish management and planning meetings and research and preparation of proposals required under 16.43.908(k) are estimated to be \$12.0 for the first year and \$8.0 yearly through FY2008.

Revenue projections assume that the number of annual moratorium vessel permit renewals will equal the average number of vessels that participated in 1998-2003.

Prepared by: Shirley Penrose, Administrative Officer Phone 907-790-6960  
Division Commercial Fisheries Entry Commission Date/Time 3/1/04 4:36 PM  
Approved by: Mary McDowell, Commissioner Date 3/1/2004  
Agency Commercial Fisheries Entry Commission

## Changes to CS for SB 347 – Version Q

Page 2, line 16 adds: “west of Cape Suckling”

*Reason: Eastern Gulf removed from bill.*

Page 2, line 21 adds: “west of Cape Suckling”

*Reason: Eastern Gulf removed from bill.*

Page 7, Section 9 deletes: “(1) Eastern Gulf of Alaska groundfish non-pelagic trawl fishery; (2) Eastern Gulf of Alaska groundfish pelagic trawl fishery; (3) Eastern Gulf of Alaska groundfish longline fishery; (4) Eastern Gulf of Alaska groundfish pot fishery;”

*Reason: Southeast does not have large numbers of aggregated groundfish. The industry in Southeast believes it is not necessary to impose a moratorium in this area.*

Page 9, lines 27-28, changes fee structure: “(1) \$500 for each pelagic trawl fishery or non-pelagic trawl fishery; (2) \$250 for each pot or longline fishery;”

*Reason: After a review of the rough estimates of earnings, these fees were found to be more reasonable.*

Page 9, lines 30-31, adds: “and the Board of Fisheries,”

*Reason: To ensure full cooperation between the Department of Fish, the Board of Fisheries, and the Commercial Fisheries Entry Commission in the development of appropriate alternatives for management of Gulf of Alaska groundfish fisheries.*

[NOTE: This section requires the submission of proposals to the legislature for legislation or constitutional amendments necessary to implement the recommendations of the commission. This will ensure adequate legislative review and approval.]

Page 10, lines 6-9, deleted: “northern Southeast Inside sablefish fishery, the Southern Southeast Inside sablefish fishery . . . or the demersal shelf rockfish fisheries.”

*Reason: These are Eastern Gulf fisheries and the Eastern Gulf has been removed from the bill.*

Page 10, (n), deletes: “(3) ‘Eastern Gulf of Alaska’ means the marine waters of the Eastern Gulf of Alaska groundfish fishery registration area, as defined by the Board of Fisheries;”

*Reason: The Eastern Gulf has been removed from the bill.*

Page 10, line 18, deletes: "north and west of Dixon Entrance"  
adds: "west of the latitude of Cape Suckling"

*Reason: The Eastern Gulf has been removed from the bill. This redefines the Eastern boundary.*



**SENATOR SCOTT OGAN**

23<sup>RD</sup> Alaska State Legislature

Senate District H Lazy Mountain \* Butte \* Chugiak \* Peters Creek \* Fairview Loop  
Knik-Goose Bay \* Big Lake \* Houston \* Willow \* Talkeetna \* Trapper Creek

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FACSIMILE TRANSMITTAL SHEET

TO: <u>Leg. Legal</u>	FROM: <u>Linda Hay - Sen Res.</u>
COMPANY:	DATE: <u>3-6-04</u>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: <u>1</u>
PHONE NUMBER:	RE: <u>CS SB 347</u>

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS:

please prepare a final for  
CS SB 347 (Res)  
23-LS1677 \ Q

This version was adopted by the  
Sen. Res. committee & moved out  
of committee 3/5/04

Thank you

23-LS1677Q  
Utermohle  
3/4/04

**CS FOR SENATE BILL NO. 347( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

Offered:  
Referred:

Sponsor(s): **SENATOR BEN STEVENS BY REQUEST**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to moratoria on entry of new participants or vessels into a commercial**  
2 **fishery; relating to vessel permits for, and the establishment of a moratorium on entry of**  
3 **new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective**  
4 **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 AND PURPOSE WITH REGARD TO A MORATORIUM ON ENTRY**  
9 **OF NEW VESSELS INTO STATE GULF OF ALASKA GROUND FISH FISHERIES. (a)**

10 The Alaska State Legislature finds that

11 (1) the goal of the state is to

12 (A) protect, maintain, and improve the fishery resources of the state,  
13 and manage the use and development of those fishery resources in the best interest of  
14 the economy and the well-being of the people of the state, consistent with the

1           sustained yield principle; and

2                   (B) promote the conservation and sustained yield management of  
3           Alaska fishery resources and the economic health and stability of commercial fishing  
4           in the state by regulating and controlling entry of participants and vessels into  
5           commercial fisheries in the public interest and without unjust discrimination;

6                   (2) the North Pacific Fishery Management Council has undertaken an analysis  
7           of the Gulf of Alaska groundfish fisheries in the United States exclusive economic zone off  
8           Alaska and has begun consideration of action that may result in significant reductions in the  
9           number of fishermen and vessels that may participate in those fisheries;

10                   (3) in order to adequately protect state groundfish fishery resources of the Gulf  
11           of Alaska and to protect those dependent upon the groundfish fisheries from economic  
12           distress, management measures must be considered that will mitigate effects from the  
13           pressures that will result from rationalization in the federal groundfish fisheries adjacent to  
14           state groundfish fisheries;

15                   (4) a timely, temporary moratorium on effort in the state-managed groundfish  
16           fisheries west of Cape Suckling will control growth during development of a long-term plan  
17           for the management of state Gulf of Alaska groundfish fisheries.

18                   (b) The purposes of the moratorium on entry of new vessels into the state Gulf of  
19           Alaska groundfish fisheries established by this Act are to

20                   (1) immediately impose a moratorium on entry of new vessels into the state  
21           Gulf of Alaska groundfish fisheries west of Cape Suckling to temporarily protect Alaska  
22           fisheries, fishermen, and those dependent on them for a livelihood from potential adverse  
23           consequences of action the North Pacific Fishery Management Council is expected to take to  
24           reduce participation in the Gulf of Alaska groundfish fisheries in the United States exclusive  
25           economic zone off Alaska, while avoiding unnecessary restrictions on entry to Alaska  
26           commercial fisheries;

27                   (2) require, during the state Gulf of Alaska groundfish fishery vessel  
28           moratorium in state water, study of whether permanent limitation on entry into these  
29           groundfish fisheries is necessary and, if so, whether statutory changes are necessary in order  
30           to implement an effective limited access program in those groundfish fisheries; and

31                   (3) provide time to pursue statutory or regulatory changes necessary to

1 provide for the long-term management of Alaska groundfish fisheries.

2 \* Sec. 2. AS 16.43.225(a) is repealed and reenacted to read:

3 (a) The commission may establish a moratorium on entry of new persons or  
4 vessels, or both, into a commercial fishery if the commission finds that the moratorium  
5 is necessary

6 (1) to promote the conservation and sustained yield management of the  
7 fishery resource and the economic health and stability of the commercial fishery; and

8 (2) either

9 (A) to allow time for the commission to develop regulatory or  
10 legislative proposals to address needs of the fishery that cannot be met under  
11 existing regulations or statutes; or

12 (B) to allow the Department of Fish and Game or the Board of  
13 Fisheries to open a commercial fishery that would otherwise remain closed to  
14 protect a fishery resource from overexploitation resulting from unrestricted  
15 access to the fishery.

16 \* Sec. 3. AS 16.43.225(b) is repealed and reenacted to read:

17 (b) The commission may establish a moratorium in one or more fisheries or  
18 for one or more fishery resources, gear types, or administrative areas within a fishery.

19 \* Sec. 4. AS 16.43.225(c) is amended to read:

20 (c) The commission may establish a moratorium under this section for a  
21 continuous period of up to four years. The commission may extend the period of a  
22 moratorium for a continuous period of not more than two years if necessary to  
23 achieve a purpose described under (a) of this section. A fishery that has been  
24 subject to a moratorium under this section may not be subjected to a subsequent  
25 moratorium under this section unless five years have elapsed since the previous  
26 moratorium expired.

27 \* Sec. 5. AS 16.43.225(d) is amended to read:

28 (d) While a moratorium is in effect, the commission shall study and evaluate  
29 alternatives for management of entry into the fishery under this chapter  
30 [CONDUCT INVESTIGATIONS TO DETERMINE WHETHER A MAXIMUM  
31 NUMBER OF ENTRY PERMITS SHOULD BE ESTABLISHED UNDER

1 AS 16.43.240] by

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

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

5 (3) consulting with participants in the fishery.

6 \* Sec. 6. AS 16.43.225(e) is amended to read:

7 (e) The commission shall establish by regulation a qualification date and  
8 eligibility criteria [THE QUALIFICATIONS] for applicants for an interim-use  
9 permit, vessel permit, or both for a fishery subject to a moratorium under this section.

10 The eligibility criteria for an interim-use permit or vessel permit for a fishery  
11 subject to a moratorium under this section [QUALIFICATIONS] must include the  
12 minimum requirements for past or present participation and harvest in the fishery as of  
13 the qualification date established by the commission. The commission shall issue

14 (1) an interim-use permit to a person who satisfies the eligibility  
15 criteria established under this subsection;

16 (2) a vessel permit to a person or entity who, as of the qualification  
17 date of application owns a vessel that satisfies the eligibility criteria established  
18 under this subsection for a vessel permit for the fishery [THE COMMISSION  
19 MAY NOT ISSUE AN INTERIM-USE PERMIT FOR A FISHERY SUBJECT TO A  
20 MORATORIUM UNDER THIS SECTION UNLESS THE APPLICANT CAN  
21 SATISFY THE QUALIFICATIONS ESTABLISHED UNDER THIS SUBSECTION  
22 AND ESTABLISH THE PRESENT ABILITY AND INTENT TO PARTICIPATE  
23 ACTIVELY IN THE FISHERY].

24 \* Sec. 7. AS 16.43.225 is amended by adding new subsections to read:

25 (f) If the commission establishes a moratorium under this section for a fishery  
26 that involves more than one fishery resource, type of gear, or administrative area, the  
27 commission may limit, as the commission determines appropriate, the species of  
28 fishery resource that may be harvested, the types of gear that may be used, and the  
29 areas where fishing may occur under an interim-use permit or a vessel permit issued  
30 for the fishery. The commission shall adopt criteria, as appropriate, for determining  
31 how

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

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

5 (g) If the commission establishes a moratorium on entry of new vessels into a  
6 fishery, the commission may regulate the fishing capacity that a vessel may employ  
7 under the vessel permit issued for the vessel. The commission shall, as appropriate,  
8 adopt criteria for determining how restrictions on vessel fishing capacity are  
9 established for vessel permits. The criteria may be based on past participation in the  
10 fishery. The commission may define fishing capacity in terms of quantity of fishing  
11 gear, fishing vessel size, or other characteristics determined by the commission to  
12 affect the fishing capacity of vessels employed in the fishery.

13 (h) A vessel permit issued under this section

14 (1) constitutes a use privilege that may be modified or revoked by law  
15 without compensation;

16 (2) may not be

17 (A) transferred to another vessel, person, or entity, except as  
18 provided under (j) of this section;

19 (B) pledged, mortgaged, leased, or encumbered in any way;

20 (C) attached, distrained, or sold on execution of judgment or  
21 under any other process or order of any court;

22 (3) does not alter the requirement for an interim-use permit under  
23 AS 16.43.140 or a vessel license under AS 16.05.490 - 16.05.520.

24 (i) The commission shall establish fees for the issuance and annual renewal of  
25 vessel permits issued under this section. The annual fee for the vessel permit must  
26 reasonably reflect the rate of economic return for the fishery and may not exceed  
27 \$1,000.

28 (j) The commission may, in the regulations establishing a moratorium under  
29 this section, provide for

30 (1) the substitution of another vessel for the vessel that is identified on  
31 a vessel permit if the vessel for which the vessel permit was originally issued is sunk,

1 destroyed, or damaged to the extent that the vessel is unable to operate in the fishery  
2 for which the permit is issued;

3 (2) a vessel permit to be reissued to the new owner of a vessel that is  
4 identified on the vessel permit if the ownership of the vessel changes during the  
5 moratorium;

6 (3) the substitution of a shorter vessel for the vessel identified on a  
7 vessel permit if

8 (A) the Board of Fisheries has adopted a vessel size restriction  
9 that prohibits the use of the vessel identified on the vessel permit in the fishery  
10 for which the vessel permit was issued;

11 (B) the substitute vessel complies with the vessel size  
12 restrictions adopted by the Board of Fisheries for the fishery for which the  
13 vessel permit was issued; and

14 (C) the substitute vessel is owned by the person or entity that  
15 owned the vessel identified on the vessel permit.

16 (k) Unless otherwise provided by law or by a regulation adopted by the  
17 commission, the commission may not consider participation in a fishery by a person or  
18 vessel that occurs during the period of the moratorium in determining eligibility for  
19 fishing privileges under a subsequent limitation on entry or participation in the fishery.

20 (l) Unless the application of a provision of this chapter to an interim-use  
21 permit issued under this section conflicts with this section or the purpose of this  
22 section, an interim-use permit issued under this section is subject to all provisions of  
23 this chapter governing interim-use permits.

24 (m) Nothing in this section limits the powers of the Board of Fisheries or the  
25 Department of Fish and Game.

26 (n) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
27 release to the owner of a vessel information on a vessel's history of harvests in a  
28 fishery that is necessary to apply for a vessel permit for the vessel under this section.

29 \* Sec. 8. AS 16.43.260(f) is amended to read:

30 (f) When the commission establishes the maximum number of entry permits  
31 under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225,

1 the commission shall establish a qualification date to be used to determine the  
2 priority classification among applicants. Each [AN] applicant for an entry permit  
3 for the fishery shall be assigned to a priority classification based [SOLELY] upon the  
4 applicant's qualifications as of the qualification [EFFECTIVE] date established  
5 under this subsection [OF THE STATUTE OR REGULATION ESTABLISHING  
6 THE MORATORIUM].

7 \* Sec. 9. AS 16.43 is amended by adding a new section to read:

8 **Sec. 16.43.908. Vessel permits for Gulf of Alaska groundfish fisheries. (a)**

9 The commission shall issue annual vessel permits under this section for commercial  
10 fishing vessels used on or after January 1, 2005, in the state Gulf of Alaska groundfish  
11 fisheries. The commission shall issue vessel permits to a vessel upon application by  
12 the vessel owner. The commission shall issue a separate vessel permit for each  
13 fishery. The Gulf of Alaska groundfish fisheries are

- 14 (1) Prince William Sound groundfish non-pelagic trawl fishery;
- 15 (2) Prince William Sound groundfish pelagic trawl fishery;
- 16 (3) Prince William Sound groundfish longline fishery;
- 17 (4) Prince William Sound groundfish pot fishery;
- 18 (5) Cook Inlet groundfish non-pelagic trawl fishery;
- 19 (6) Cook Inlet groundfish pelagic trawl fishery;
- 20 (7) Cook Inlet groundfish longline fishery;
- 21 (8) Cook Inlet groundfish pot fishery;
- 22 (9) Kodiak groundfish non-pelagic trawl fishery;
- 23 (10) Kodiak groundfish pelagic trawl fishery;
- 24 (11) Kodiak groundfish longline fishery;
- 25 (12) Kodiak groundfish pot fishery;
- 26 (13) Chignik groundfish non-pelagic trawl fishery;
- 27 (14) Chignik groundfish pelagic trawl fishery;
- 28 (15) Chignik groundfish longline fishery;
- 29 (16) Chignik groundfish pot fishery;
- 30 (17) South Alaska Peninsula groundfish non-pelagic trawl fishery;
- 31 (18) South Alaska Peninsula groundfish pelagic trawl fishery;

1 (19) South Alaska Peninsula groundfish longline fishery;

2 (20) South Alaska Peninsula groundfish pot fishery.

3 (b) A vessel permit is a use privilege authorizing the vessel to engage in a  
4 specific groundfish fishery if that fishery is authorized by the Board of Fisheries. A  
5 vessel permit must describe the fishery resource, the type of gear, and the area for  
6 which the vessel permit is issued. The use privilege conveyed by a vessel permit may  
7 be modified or revoked by the legislature without compensation.

8 (c) Except as provided in (m) of this section, on or after January 1, 2005, a  
9 commercial fishing vessel may not use pelagic trawl, non-pelagic trawl, longline, or  
10 pot gear, as defined by the Board of Fisheries, to take groundfish in a state Gulf of  
11 Alaska groundfish fishery unless a vessel permit for that fishery has been issued for  
12 the vessel under this section. This subsection does not prohibit the use of a  
13 commercial fishing vessel to take groundfish using gear other than pelagic trawl, non-  
14 pelagic trawl, longline, or pot gear, if the taking and retention of the groundfish is  
15 permitted under regulations adopted by the Board of Fisheries.

16 (d) Notwithstanding AS 16.43.225, the commission may not issue a vessel  
17 permit under this section to a commercial fishing vessel for a Gulf of Alaska  
18 groundfish fishery for the period January 1, 2005, through December 31, 2008,  
19 inclusive, unless the vessel has, on or after January 1, 1998, and before the effective  
20 date of this Act, made a documented landing of groundfish in the area using the type  
21 of gear for which the permit is to be issued. The commission may by regulation  
22 extend the moratorium on entry of new vessels into the Gulf of Alaska groundfish  
23 fisheries established under this subsection for a maximum period of two years until  
24 January 1, 2011, if the commission finds that the extension of the moratorium is  
25 necessary to achieve the purposes of the moratorium.

26 (e) Participation of a person or a vessel in a Gulf of Alaska groundfish fishery  
27 during the moratorium established under (d) of this section may not be used to  
28 establish eligibility for a use privilege for a groundfish fishery that may be issued after  
29 the termination of the moratorium authorized under this section.

30 (f) Subsections (d) - (e) of this section may be superseded by regulations  
31 adopted by the commission under subsequent legislation enacted by the legislature

1 authorizing the regulations.

2 (g) If, during the moratorium established under (d) of this section, a  
3 commercial fishing vessel that qualifies for a vessel permit under this section or that is  
4 issued a vessel permit under this section is sunk, destroyed, or damaged, to the extent  
5 that the vessel is inoperable for a state Gulf of Alaska groundfish fishery, the  
6 commission may, upon the request of the owner of the vessel, reissue the vessel permit  
7 to another commercial fishing vessel with an overall length that does not exceed the  
8 overall length of the vessel that was sunk, destroyed, or damaged by more than ten  
9 percent.

10 (h) During the moratorium established under (d) of this section, the  
11 commission shall, upon request of the new owner of a vessel and submission of proof  
12 of ownership, reissue a vessel permit to the new owner of a vessel if the ownership of  
13 the vessel identified on the vessel permit is transferred.

14 (i) During the moratorium established under (d) of this section, a vessel permit  
15 may be transferred to a shorter vessel that is substituted for the vessel identified on a  
16 vessel permit if

17 (A) the Board of Fisheries has adopted a vessel size restriction  
18 that prohibits the use of the vessel identified on the vessel permit in the fishery  
19 for which the vessel permit was issued;

20 (B) the substitute vessel complies with the vessel size  
21 restrictions adopted by the Board of Fisheries for the fishery for which the  
22 vessel permit was issued; and

23 (C) the substitute vessel is owned by the person or entity that  
24 owned the vessel identified on the vessel permit.

25 (j) A vessel permit is valid for the calendar year that is inscribed on the vessel  
26 permit. The annual fee for a vessel permit is

27 (1) \$500 for each pelagic trawl fishery or non-pelagic trawl fishery;

28 (2) \$250 for each pot fishery or longline fishery;

29 (k) During the moratorium established under (d) of this section, the  
30 commission shall, in cooperation with the Department of Fish and Game and the  
31 Board of Fisheries, conduct investigations to determine appropriate alternatives for

1 management of entry into Gulf of Alaska groundfish fisheries in the state. The  
2 commission shall submit proposals to the legislature for legislation or constitutional  
3 amendments necessary to implement the recommendations of the commission.

4 (l) The commission may adopt regulations that the commission considers  
5 necessary to implement this section.

6 (m) Notwithstanding other provisions of this section, a vessel permit issued  
7 under this section is not required of a vessel while that vessel is participating in the  
8 Prince William Sound sablefish fishery or a halibut fishery managed under a federal  
9 individual fishery quota system.

10 (n) In this section,

11 (1) "Chignik" means the marine water of the Chignik groundfish  
12 fishery registration area, as defined by the Board of Fisheries;

13 (2) "Cook Inlet" means the marine water of the Cook Inlet groundfish  
14 fishery registration area, as defined by the Board of Fisheries;

15 (3) "groundfish" means a species of marine finfish other than halibut,  
16 osmerids, herring, or salmonids;

17 (4) "Gulf of Alaska" means the marine water of the state adjacent to  
18 the Gulf of Alaska that is west of the latitude of Cape Suckling to the westward extent  
19 of state water of the Aleutian Islands;

20 (5) "Gulf of Alaska groundfish fishery" means a fishery in which  
21 groundfish are taken in a specified administrative or registration area in the Gulf of  
22 Alaska using a specified type of fishing gear that is either pelagic trawl, non-pelagic  
23 trawl, pot, or longline gear;

24 (6) "Kodiak" means the marine water of the Kodiak groundfish fishery  
25 registration area, as defined by the Board of Fisheries;

26 (7) "landing" means the act of offloading for sale, or for transport to a  
27 buyer for later sale, or catching and processing of groundfish taken in a halibut or  
28 groundfish fishery in state water for sale as evidenced by a Department of Fish and  
29 Game fish ticket;

30 (8) "Prince William Sound" means the marine water of the Prince  
31 William Sound groundfish fishery registration area, as defined by the Board of

1 Fisheries;

2 (9) "South Alaska Peninsula" means the marine water of the South  
3 Alaska Peninsula groundfish fishery registration area, as defined by the Board of  
4 Fisheries.

5 \* Sec. 10. AS 16.43.911(c) is amended to read:

6 (c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
7 release to the owner of a vessel information on the vessel's history of harvests in a  
8 fishery that is necessary to apply for a vessel permit under AS 16.43.901 - 16.43.908  
9 [AS 16.43.901 - 16.43.906].

10 \* Sec. 11. The uncodified law of the State of Alaska enacted in sec. 6, ch. 97, SLA 1997, as  
11 amended by sec. 6, ch. 30, SLA 2000, is amended to read:

12 Sec. 6. AS 16.43.906, added by sec. 3 of this Act, is [AND AS 16.43.911  
13 ARE] repealed July 1, 2004.

14 \* Sec. 12. AS 16.05.050(a)(19), 16.05.251(g), AS 16.43.227, and 16.43.228 are repealed.

15 \* Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 CONTINGENT RETROSPECTIVITY. If this Act does not take effect before July 1,  
18 2004, secs. 10 - 11 of this Act are retrospective to June 30, 2004.

19 \* Sec. 14. This Act takes effect immediately under AS 01.10.070(c).

23-LS1677N  
Uternohle  
3/2/04

**CS FOR SENATE BILL NO. 347( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR BEN STEVENS BY REQUEST**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to moratoria on entry of new participants or vessels into a commercial**  
2 **fishery; relating to vessel permits for, and the establishment of a moratorium on entry of**  
3 **new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective**  
4 **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 AND PURPOSE WITH REGARD TO A MORATORIUM ON ENTRY**  
9 **OF NEW VESSELS INTO STATE GULF OF ALASKA GROUND FISH FISHERIES. (a)**  
10 The Alaska State Legislature finds that

11 (1) the goal of the state is to  
12 (A) protect, maintain, and improve the fishery resources of the state,  
13 and manage the use and development of those fishery resources in the best interest of  
14 the economy and the well-being of the people of the state, consistent with the

1           sustained yield principle; and

2                   (B) promote the conservation and sustained yield management of  
3           Alaska fishery resources and the economic health and stability of commercial fishing  
4           in the state by regulating and controlling entry of participants and vessels into  
5           commercial fisheries in the public interest and without unjust discrimination;

6                   (2) the North Pacific Fishery Management Council has undertaken an analysis  
7           of the Gulf of Alaska groundfish fisheries in the United States exclusive economic zone off  
8           Alaska and has begun consideration of action that may result in significant reductions in the  
9           number of fishermen and vessels that may participate in those fisheries;

10                   (3) in order to adequately protect state groundfish fishery resources of the Gulf  
11           of Alaska and to protect those dependent upon the groundfish fisheries from economic  
12           distress, management measures must be considered that will mitigate effects from the  
13           pressures that will result from rationalization in the federal groundfish fisheries adjacent to  
14           state groundfish fisheries;

15                   (4) a timely, temporary moratorium on effort in the state-managed groundfish  
16           fisheries will control growth during development of a long term plan for the management of  
17           state Gulf of Alaska groundfish fisheries.

18                   (b) The purposes of the moratorium on entry of new vessels into the state Gulf of  
19           Alaska groundfish fisheries established by this Act are to

20                   (1) immediately impose a moratorium on entry of new vessels into the state  
21           Gulf of Alaska groundfish fisheries to temporarily protect Alaska fisheries, fishermen, and  
22           those dependent on them for a livelihood from potential adverse consequences of action the  
23           North Pacific Fishery Management Council is expected to take to reduce participation in the  
24           Gulf of Alaska groundfish fisheries in the United States exclusive economic zone off Alaska,  
25           while avoiding unnecessary restrictions on entry to Alaska commercial fisheries;

26                   (2) require, during the state Gulf of Alaska groundfish fishery vessel  
27           moratorium in state water, study of whether permanent limitation on entry into these  
28           groundfish fisheries is necessary and, if so, whether statutory changes are necessary in order  
29           to implement an effective limited access program in those groundfish fisheries; and

30                   (3) provide time to pursue statutory or regulatory changes necessary to  
31           provide for the long-term management of Alaska groundfish fisheries.

1 \* Sec. 2. AS 16.43.225(a) is repealed and reenacted to read:

2 (a) The commission may establish a moratorium on entry of new persons or  
3 vessels, or both, into a commercial fishery if the commission finds that the moratorium  
4 is necessary

5 (1) to promote the conservation and sustained yield management of the  
6 fishery resource and the economic health and stability of the commercial fishery; and

7 (2) either

8 (A) to allow time for the commission to develop regulatory or  
9 legislative proposals to address needs of the fishery that cannot be met under  
10 existing regulations or statutes; or

11 (B) to allow the Department of Fish and Game or the Board of  
12 Fisheries to open a commercial fishery that would otherwise remain closed to  
13 protect a fishery resource from overexploitation resulting from unrestricted  
14 access to the fishery.

15 \* Sec. 3. AS 16.43.225(b) is repealed and reenacted to read:

16 (b) The commission may establish a moratorium in one or more fisheries or  
17 for one or more fishery resources, gear types, or administrative areas within a fishery.

18 \* Sec. 4. AS 16.43.225(c) is amended to read:

19 (c) The commission may establish a moratorium under this section for a  
20 continuous period of up to four years. The commission may extend the period of a  
21 moratorium for a continuous period of not more than two years if necessary to  
22 achieve a purpose described under (a) of this section. A fishery that has been  
23 subject to a moratorium under this section may not be subjected to a subsequent  
24 moratorium under this section unless five years have elapsed since the previous  
25 moratorium expired.

26 \* Sec. 5. AS 16.43.225(d) is amended to read:

27 (d) While a moratorium is in effect, the commission shall study and evaluate  
28 alternatives for management of entry into the fishery under this chapter  
29 [CONDUCT INVESTIGATIONS TO DETERMINE WHETHER A MAXIMUM  
30 NUMBER OF ENTRY PERMITS SHOULD BE ESTABLISHED UNDER  
31 AS 16.43.240] by

- 1 (1) conducting research into conditions in the fishery;  
2 (2) consulting with the Department of Fish and Game and the Board of  
3 Fisheries; and  
4 (3) consulting with participants in the fishery.

5 \* Sec. 6. AS 16.43.225(e) is amended to read:

6 (e) The commission shall establish by regulation a qualification date and  
7 eligibility criteria [THE QUALIFICATIONS] for applicants for an interim-use  
8 permit, vessel permit, or both for a fishery subject to a moratorium under this section.  
9 The eligibility criteria for an interim-use permit or vessel permit for a fishery  
10 subject to a moratorium under this section [QUALIFICATIONS] must include the  
11 minimum requirements for past or present participation and harvest in the fishery as of  
12 the qualification date established by the commission. The commission shall issue

13 (1) an interim-use permit to a person who satisfies the eligibility  
14 criteria established under this subsection;

15 (2) a vessel permit to a person or entity who, as of the qualification  
16 date of application owns a vessel that satisfies the eligibility criteria established  
17 under this subsection for a vessel permit for the fishery [THE COMMISSION  
18 MAY NOT ISSUE AN INTERIM-USE PERMIT FOR A FISHERY SUBJECT TO A  
19 MORATORIUM UNDER THIS SECTION UNLESS THE APPLICANT CAN  
20 SATISFY THE QUALIFICATIONS ESTABLISHED UNDER THIS SUBSECTION  
21 AND ESTABLISH THE PRESENT ABILITY AND INTENT TO PARTICIPATE  
22 ACTIVELY IN THE FISHERY].

23 \* Sec. 7. AS 16.43.225 is amended by adding new subsections to read:

24 (f) If the commission establishes a moratorium under this section for a fishery  
25 that involves more than one fishery resource, type of gear, or administrative area, the  
26 commission may limit, as the commission determines appropriate, the species of  
27 fishery resource that may be harvested, the types of gear that may be used, and the  
28 areas where fishing may occur under an interim-use permit or a vessel permit issued  
29 for the fishery. The commission shall adopt criteria, as appropriate, for determining  
30 how

- 31 (1) restrictions on fishery resources, types of gear, and areas fished are

1 established for individual interim-use permits and vessel permits; and

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

4 (g) If the commission establishes a moratorium on entry of new vessels into a  
5 fishery, the commission may regulate the fishing capacity that a vessel may employ  
6 under the vessel permit issued for the vessel. The commission shall, as appropriate,  
7 adopt criteria for determining how restrictions on vessel fishing capacity are  
8 established for vessel permits. The criteria may be based on past participation in the  
9 fishery. The commission may define fishing capacity in terms of quantity of fishing  
10 gear, fishing vessel size, or other characteristics determined by the commission to  
11 affect the fishing capacity of vessels employed in the fishery.

12 (h) A vessel permit issued under this section

13 (1) constitutes a use privilege that may be modified or revoked by law  
14 without compensation;

15 (2) may not be

16 (A) transferred to another vessel, person, or entity, except as  
17 provided under (j) of this section;

18 (B) pledged, mortgaged, leased, or encumbered in any way;

19 (C) attached, distrained, or sold on execution of judgment or  
20 under any other process or order of any court;

21 (3) does not alter the requirement for an interim-use permit under  
22 AS 16.43.140 or a vessel license under AS 16.05.490 - 16.05.520.

23 (i) The commission shall establish fees for the issuance and annual renewal of  
24 vessel permits issued under this section. The annual fee for the vessel permit must  
25 reasonably reflect the rate of economic return for the fishery and may not exceed  
26 \$1,000.

27 (j) The commission may, in the regulations establishing a moratorium under  
28 this section, provide for

29 (1) the substitution of another vessel for the vessel that is identified on  
30 a vessel permit if the vessel for which the vessel permit was originally issued is sunk,  
31 destroyed, or damaged to the extent that the vessel is unable to operate in the fishery

1 for which the permit is issued;

2 (2) a vessel permit to be reissued to the new owner of a vessel that is  
3 identified on the vessel permit if the ownership of the vessel changes during the  
4 moratorium;

5 (3) the substitution of a shorter vessel for the vessel identified on a  
6 vessel permit if

7 (A) the Board of Fisheries has adopted a vessel size restriction  
8 that prohibits the use of the vessel identified on the vessel permit in the fishery  
9 for which the vessel permit was issued;

10 (B) the substitute vessel complies with the vessel size  
11 restrictions adopted by the Board of Fisheries for the fishery for which the  
12 vessel permit was issued; and

13 (C) the substitute vessel is owned by the person or entity that  
14 owned the vessel identified on the vessel permit.

15 (k) Unless otherwise provided by law or by a regulation adopted by the  
16 commission, the commission may not consider participation in a fishery by a person or  
17 vessel that occurs during the period of the moratorium in determining eligibility for  
18 fishing privileges under a subsequent limitation on entry or participation in the fishery.

19 (l) Unless the application of a provision of this chapter to an interim-use  
20 permit issued under this section conflicts with this section or the purpose of this  
21 section, an interim-use permit issued under this section is subject to all provisions of  
22 this chapter governing interim-use permits.

23 (m) Nothing in this section limits the powers of the Board of Fisheries or the  
24 Department of Fish and Game.

25 (n) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
26 release to the owner of a vessel information on a vessel's history of harvests in a  
27 fishery that is necessary to apply for a vessel permit for the vessel under this section.

28 \* Sec. 8. AS 16.43.260(f) is amended to read:

29 (f) When the commission establishes the maximum number of entry permits  
30 under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225,  
31 the commission shall establish a qualification date to be used to determine the

1 priority classification among applicants. Each [AN] applicant for an entry permit  
2 for the fishery shall be assigned to a priority classification based [SOLELY] upon the  
3 applicant's qualifications as of the qualification [EFFECTIVE] date established  
4 under this subsection [OF THE STATUTE OR REGULATION ESTABLISHING  
5 THE MORATORIUM].

6 \* Sec. 9. AS 16.43 is amended by adding a new section to read:

7 **Sec. 16.43.908. Vessel permits for Gulf of Alaska groundfish fisheries.** (a)

8 The commission shall issue annual vessel permits under this section for commercial  
9 fishing vessels used on or after January 1, 2005, in the state Gulf of Alaska groundfish  
10 fisheries. The commission shall issue vessel permits to a vessel upon application by  
11 the vessel owner. The commission shall issue separate vessel permits for each fishery.

12 The Gulf of Alaska groundfish fisheries are

- 13 (1) Eastern Gulf of Alaska groundfish non-pelagic trawl fishery;
- 14 (2) Eastern Gulf of Alaska groundfish pelagic trawl fishery;
- 15 (3) Eastern Gulf of Alaska groundfish longline fishery;
- 16 (4) Eastern Gulf of Alaska groundfish pot fishery;
- 17 (5) Prince William Sound groundfish non-pelagic trawl fishery;
- 18 (6) Prince William Sound groundfish pelagic trawl fishery;
- 19 (7) Prince William Sound groundfish longline fishery;
- 20 (8) Prince William Sound groundfish pot fishery;
- 21 (9) Cook Inlet groundfish non-pelagic trawl fishery;
- 22 (10) Cook Inlet groundfish pelagic trawl fishery;
- 23 (11) Cook Inlet groundfish longline fishery;
- 24 (12) Cook Inlet groundfish pot fishery;
- 25 (13) Kodiak groundfish non-pelagic trawl fishery;
- 26 (14) Kodiak groundfish pelagic trawl fishery;
- 27 (15) Kodiak groundfish longline fishery;
- 28 (16) Kodiak groundfish pot fishery;
- 29 (17) Chignik groundfish non-pelagic trawl fishery;
- 30 (18) Chignik groundfish pelagic trawl fishery;
- 31 (19) Chignik groundfish longline fishery;

- 1 (20) Chignik groundfish pot fishery;  
2 (21) South Alaska Peninsula groundfish non-pelagic trawl fishery;  
3 (22) South Alaska Peninsula groundfish pelagic trawl fishery;  
4 (23) South Alaska Peninsula groundfish longline fishery;  
5 (24) South Alaska Peninsula groundfish pot fishery.

6 (b) A vessel permit is a use privilege authorizing the vessel to engage in a  
7 specific groundfish fishery if that fishery is authorized by the Board of Fisheries. A  
8 vessel permit must describe the fishery resource, the type of gear, and the area for  
9 which the vessel permit is issued. The use privilege conveyed by a vessel permit may  
10 be modified or revoked by the legislature without compensation.

11 (c) Except as provided in (m) of this section, on or after January 1, 2005, a  
12 commercial fishing vessel may not use pelagic trawl, non-pelagic trawl, longline, or  
13 pot gear, as defined by the Board of Fisheries, to take groundfish in a state Gulf of  
14 Alaska groundfish fishery unless a vessel permit for that fishery has been issued for  
15 the vessel under this section. This subsection does not prohibit the use of a  
16 commercial fishing vessel to take groundfish using gear other than pelagic trawl, non-  
17 pelagic trawl, longline, or pot gear, if the taking and retention of the groundfish is  
18 permitted under regulations adopted by the Board of Fisheries.

19 (d) Notwithstanding AS 16.43.225, the commission may not issue a vessel  
20 permit under this section to a commercial fishing vessel for a Gulf of Alaska  
21 groundfish fishery for the period January 1, 2005, through December 31, 2008,  
22 inclusive, unless the vessel has, on or after January 1, 1998, and before the effective  
23 date of this Act, made a documented landing of groundfish in the area using the type  
24 of gear for which the permit is to be issued. The commission may by regulation  
25 extend the moratorium on entry of new vessels into the Gulf of Alaska groundfish  
26 fisheries established under this subsection for a maximum period of two years until  
27 January 1, 2011, if the commission finds that the extension of the moratorium is  
28 necessary to achieve the purposes of the moratorium.

29 (e) Participation of a person or a vessel in a Gulf of Alaska groundfish fishery  
30 during the moratorium established under (d) of this section may not be used to  
31 establish eligibility for a use privilege for a groundfish fishery that may be issued after

1 the termination of the moratorium authorized under this section.

2 (f) Subsections (d) - (e) of this section may be superseded by regulations  
3 adopted by the commission under subsequent legislation enacted by the legislature  
4 authorizing the regulations.

5 (g) If, during the moratorium established under (d) of this section, a  
6 commercial fishing vessel that qualifies for a vessel permit under this section or that is  
7 issued a vessel permit under this section is sunk, destroyed, or damaged, to the extent  
8 that the vessel is inoperable for a state Gulf of Alaska groundfish fishery, the  
9 commission may, upon the request of the owner of the vessel, reissue the vessel permit  
10 to another commercial fishing vessel with an overall length that does not exceed the  
11 overall length of the vessel that was sunk, destroyed, or damaged by more than ten  
12 percent.

13 (h) During the moratorium established under (d) of this section, the  
14 commission shall, upon request of the new owner of a vessel and submission of proof  
15 of ownership, reissue a vessel permit to the new owner of a vessel if the ownership of  
16 the vessel identified on the vessel permit is transferred.

17 (i) During the moratorium established under (d) of this section, a vessel permit  
18 may be transferred to a shorter vessel that is substituted for the vessel identified on a  
19 vessel permit if

20 (A) the Board of Fisheries has adopted a vessel size restriction  
21 that prohibits the use of the vessel identified on the vessel permit in the fishery  
22 for which the vessel permit was issued;

23 (B) the substitute vessel complies with the vessel size  
24 restrictions adopted by the Board of Fisheries for the fishery for which the  
25 vessel permit was issued; and

26 (C) the substitute vessel is owned by the person or entity that  
27 owned the vessel identified on the vessel permit.

28 (j) A vessel permit is valid for the calendar year that is inscribed on the vessel  
29 permit. The annual fee for a vessel permit is

30 (1) \$650 for a vessel used in a pelagic trawl or non-pelagic trawl  
31 fishery;

1 (2) \$450 for a vessel used in a longline fishery;

2 (3) \$250 for a vessel used in a pot fishery.

3 (k) During the moratorium established under (d) of this section, the  
4 commission shall, in cooperation with the Department of Fish and Game, conduct  
5 investigations to determine appropriate alternatives for management of entry into Gulf  
6 of Alaska groundfish fisheries in the state. The commission shall submit proposals to  
7 the legislature for legislation or constitutional amendments necessary to implement the  
8 recommendations of the commission.

9 (l) The commission may adopt regulations that the commission considers  
10 necessary to implement this section.

11 (m) Notwithstanding other provisions of this section, a vessel permit issued  
12 under this section is not required of a vessel while that vessel is participating in the  
13 Prince William Sound sablefish fishery, northern Southeast Inside sablefish fishery,  
14 the southern Southeast Inside sablefish fishery, a halibut fishery managed under a  
15 federal individual fishery quota system, or the directed demersal shelf rockfish  
16 fisheries.

17 (n) In this section,

18 (1) "Chignik" means the marine water of the Chignik groundfish  
19 fishery registration area, as defined by the Board of Fisheries;

20 (2) "Cook Inlet" means the marine water of the Cook Inlet groundfish  
21 fishery registration area, as defined by the Board of Fisheries;

22 (3) "Eastern Gulf of Alaska" means the marine water of the Eastern  
23 Gulf of Alaska groundfish fishery registration area, as defined by the Board of  
24 Fisheries;

25 (4) "groundfish" means a species of marine finfish other than halibut,  
26 osmerids, herring, or salmonids;

27 (5) "Gulf of Alaska" means the marine water of the state adjacent to  
28 the Gulf of Alaska that is north and west of Dixon Entrance to the westward extent of  
29 state water of the Aleutian Islands;

30 (6) "Gulf of Alaska groundfish fishery" means a fishery in which  
31 groundfish are taken in a specified administrative or registration area using a specified

1 type of fishing gear that is either pelagic trawl, non-pelagic trawl, pot, or longline  
2 gear;

3 (7) "Kodiak" means the marine water of the Kodiak groundfish fishery  
4 registration area, as defined by the Board of Fisheries;

5 (8) "landing" means the act of offloading for sale, or for transport to a  
6 buyer for later sale, or catching and processing of groundfish taken in a halibut or  
7 groundfish fishery in state water for sale as evidenced by a Department of Fish and  
8 Game fish ticket;

9 (9) "Prince William Sound" means the marine water of the Prince  
10 William Sound groundfish fishery registration area, as defined by the Board of  
11 Fisheries;

12 (10) "South Alaska Peninsula" means the marine water of the South  
13 Alaska Peninsula groundfish fishery registration area, as defined by the Board of  
14 Fisheries.

15 \* **Sec. 10.** AS 16.43.911(c) is amended to read:

16 (c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
17 release to the owner of a vessel information on the vessel's history of harvests in a  
18 fishery that is necessary to apply for a vessel permit under AS 16.43.901 - 16.43.908  
19 [AS 16.43.901 - 16.43.906].

20 \* **Sec. 11.** The uncodified law of the State of Alaska enacted in sec. 6, ch. 97, SLA 1997, as  
21 amended by sec. 6, ch. 30, SLA 2000, is amended to read:

22 Sec. 6. AS 16.43.906, added by sec. 3 of this Act, is [AND AS 16.43.911  
23 ARE] repealed July 1, 2004.

24 \* **Sec. 12.** AS 16.05.050(a)(19), 16.05.251(g), AS 16.43.227, and 16.43.228 are repealed.

25 \* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to  
26 read:

27 CONTINGENT RETROSPECTIVITY. If this Act does not take effect before July 1,  
28 2004, secs. 10 - 11 of this Act are retrospective to June 30, 2004.

29 \* **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).

1 buyer for later sale, or catching and processing of groundfish taken in a groundfish  
2 fishery in state water for sale as evidenced by a Department of Fish and Game fish  
3 ticket;

4 (9) "Prince William Sound" means the marine water of the Prince  
5 William Sound groundfish fishery registration area, as defined by the Board of  
6 Fisheries;

7 (10) "South Alaska Peninsula" means the marine water of the South  
8 Alaska Peninsula groundfish fishery registration area, as defined by the Board of  
9 Fisheries.

10 \* Sec. 10. AS 16.43.911(c) is amended to read:

11 (c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
12 release to the owner of a vessel information on the vessel's history of harvests in a  
13 fishery that is necessary to apply for a vessel permit under AS 16.43.901 - 16.43.908  
14 [AS 16.43.901 - 16.43.906].

15 \* Sec. 11. The uncodified law of the State of Alaska enacted in sec. 6, ch. 97, SLA 1997, as  
16 amended by sec. 6, ch. 30, SLA 2000, is amended to read:

17 Sec. 6. AS 16.43.906, added by sec. 3 of this Act, is [AND AS 16.43.911  
18 ARE] repealed July 1, 2004.

19 \* Sec. 12. AS 16.05.050(a)(19), 16.05.251(g), AS 16.43.227, and 16.43.228 are repealed.

20 \* Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 CONTINGENT RETROSPECTIVITY. If this Act does not take effect before July 1,  
23 2004, secs. 10 - 11 of this Act are retrospective to June 30, 2004.

24 \* Sec. 14. This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature

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Senate District N

## Introduction to Information in Committee Packet on SB 347

Senate Bill 347 is a two-part bill. One part (Sections 2-8) amends the existing provisions in the limited entry statutes authorizing CFEC to administratively establish a temporary moratorium on entrants of new participants into a fishery.

The other part of the bill (Sections 1 and 9) statutorily establishes a moratorium in the Gulf of Alaska state waters groundfish fisheries.

The sectional goes through the bill in order. Please note that Sections 1 and 9 pertain specifically to the Gulf of Alaska groundfish moratoria. Sections 2 – 8 amend existing provisions in the limited entry statutes relating to the establishment of moratoriums.

Other information in this bill packet is divided into two sets. One explains the revisions to the current moratorium statute, and the other explains the portion of the bill establishing moratoria in the groundfish fisheries.

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Senate District N

## SPONSOR STATEMENT

### Senate Bill 347

"An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to vessel permits for, and the establishment of a moratorium on entry of new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective date."

Senate Bill 347 addresses two issues regarding fisheries moratoria. One section of the bill amends AS 16.43.225 to allow the statute to be utilized. Because of its current inadequacies, the law has never been used to place a moratorium on a fishery. All of the moratoria implemented to date have required special legislation. The second issue addressed in the bill is the immediate need to place a moratorium on the Gulf of Alaska groundfish fisheries.

Over the past 12 years, some members of the Gulf of Alaska (GOA) groundfish fishing industry have sought to rationalize the groundfish fishery. Participants want to create incentives that slow the competitive race for fish. The belief is that this will result in a more economically stable fishery that can better respond to changing economic and environmental concerns.

The North Pacific Fishery Management Council (NPFMC) has taken several steps toward rationalization over the past 12 years. The Council formed the first of three committees to address GOA rationalization in the groundfish fishery in 2000. The Council is developing several alternative approaches for new management policies to rationalize GOA groundfish fisheries resulting from four years of Council meetings and input from eight public hearings held throughout Alaska and Seattle during the summer and fall of 2002.

Rationalizing federal fisheries in the GOA could affect State of Alaska fishery management. In October 2003, the Board of Fisheries convened a committee of stakeholders with state, National Marine Fisheries Service, Board of Fisheries, Department of Law, and Council staff. It is called the GOA Groundfish Rationalization Task Force. Their mission is to pursue approaches to provide harvest opportunities under GOA rationalization in state waters that does not conflict with state law.

In February 2004, the Board of Fisheries voted 7-0: (1) to recommend pursuing legislative authority for a moratorium on all new entrants into the groundfish fisheries, excluding jig gear; (2) to recommend maintaining current state groundfish management, or alternatively, allocate a range of harvests for state management based on historic harvest patterns in state waters; and (3) direct the GOA Task Force to continue to explore ways to control harvests within state waters that meet the goals of GOA rationalization and restrictions under state law.

Senate Bill 347 will assist the Department of Fish and Game and the Commercial Fisheries Entry Commission in meeting the objectives outlined by the Board of Fisheries for the development of state water groundfish fisheries in the Gulf of Alaska.

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## Senate District N

### Sectional Analysis CSSB347 (RES)

**“An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to vessel permits for, and the establishment of a moratorium on entry of new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective date.”**

Section 1. Findings and Purpose for the establishment of a moratorium on entry of new vessels into state Gulf of Alaska groundfish fisheries. [Section 9 in the bill.]

#### Amending Existing CFEC Moratorium Provisions

Section 2. Sets forth purposes for which CFEC may establish a moratorium in a fishery.

Section 3. Establishes that a moratorium may be for one or more fisheries or one or more species, gear types, or areas.

Section 4. Existing law allows for establishment of a moratorium of up to four years. This section adds ability to administratively extend up to another two years if necessary to achieve the purposes of the moratorium.

Section 5. Current law directs CFEC, during moratorium, to analyze whether the fishery should be limited under the existing limited entry program. This section expands that assignment, directing CFEC to evaluate a broader array of post-moratorium options for managing entry into the fishery in order to seek the best possible long-term solution for the fishery.

Section 6. Makes clear that moratorium eligibility criteria are to include an entrance qualification date established by the commission.

Authorizes establishment of a moratorium on persons, vessels, or both, and criteria for qualifying for those permits. Current law only provides for a moratorium on entry of new persons. This section is adding ability to also suspend entry of additional vessels or of both vessels and persons.

*In some fisheries multiple hired skippers run the same vessels over the course of a year. A person-only moratorium could result in many more moratorium permits than a vessel-based moratorium, thus allowing substantial expansion of fleets during moratorium. Capping the number of vessels to avoid additional capitalization during moratorium could be a more effective tool in such fisheries.*

**(NOTE: This does NOT authorize a permanent vessel-based limitation following the moratorium. Such authority would require approval of subsequent legislation.)**

Section 7.

Adds new subsections providing more detailed direction to CFEC than is provided in existing statute about structure, implementation, and ongoing handling of moratorium and moratorium permits.

(f) If moratoria are established for a fishery that involves multiple species, gear types, or areas, the commission may limit by restrictions and eligibility those species, gear types, or areas that are authorized under a vessel interim-use or interim-use moratorium permit.

(g), (h), (i), and (j) pertain specifically to when a vessel-based moratorium is used. **(These provisions are consistent with general provisions in CFEC law, but because the general provisions pertain to "person-based" permits, they cannot be relied upon to cover vessel permits.)**

(g) Authorizes CFEC to attach capacity restrictions to interim-use vessel permits to prevent upgrading to larger vessels and resulting expansion of fishing power during moratorium.

(h) Makes clear that permits can be modified or revoked by legislative action without compensation, and that they are not "property," may not be transferred, leased, attached, encumbered, etc. A vessel interim-use permit does not alter the requirement for the operator of the vessel to hold a valid interim-use permit from CFEC or for the vessel to have a commercial fishing vessel license from CFEC.

(i) Directs CFEC to charge fees for initial issuance and annual renewal of moratorium vessel permits. Annual fees are to reflect rates of economic return (fees for more lucrative fisheries are higher than for less lucrative) and those fees may not exceed \$1000.

(j) Authorizes CFEC to provide for substitution of another vessel if the vessel is sunk, destroyed, or damaged beyond use and is unable to operate in the fishery for which the permit is issued.

(k) Participation in the fishery during the moratorium may not be used to establish eligibility for a use privilege issued after the moratorium unless otherwise provided by a subsequently adopted law or CFEC regulation.

*Intended to discourage "speculative" fishing effort during moratorium.*

(l) Makes general provisions of CFEC law pertaining to person-based interim-use permits apply to person-based moratorium permits, unless those general provisions conflict with the provisions of section 16.43.225.

(m) Makes explicit that nothing in this section limits the powers of the Board of Fisheries or the Department of Fish Game.

(n) Under cited current laws, fishing history is generally releasable only to the skipper under whose interim-use permit fish was landed, even if the vessel used was owned by someone else. In a person-based moratorium or limited entry program, the applicant would be the skipper. However, under a vessel-based program, the vessel owner needs to access the fishing history data about landings made from the subject vessel in order to establish eligibility of the vessel for a vessel permit. Therefore, this section provides vessel owners access to that information if necessary to apply for a vessel permit.

Section 8. If a fishery that was under moratorium is subsequently limited under the traditional limited entry program, CFEC is authorized to establish a qualification date for eligibility for a limited entry permit that may or may not include time during the moratorium.  
Depending on the attributes of the particular fishery and participation patterns, there may be compelling reasons for including or not including any or all of the moratorium time in the eligibility period for a subsequently enacted limitation.

### *Gulf of Alaska Moratorium*

Section 9. (a) This subsection adds a section to AS 16.43 directing the Commercial Fisheries Entry Commission (CFEC) to issue annual vessel permits for each individual fishery by management area and gear type beginning January 1, 2005. Vessel owners are required to apply for these permits.

*Vessels instead of persons were chosen for limitation so as to define a smaller pool of participants to achieve the goal of controlling growth during development of a Gulf groundfish rationalization program in state waters.*

*The jig fishery was exempted from the bill in order to provide for entry level access to Gulf groundfish fisheries.*

- (b) Specifies that a vessel use permit is a use privilege rather than a property right, and that the use privilege can be modified or revoked by the Legislature without compensation.
- (c) Stipulates that on and after January 1, 2005 (except as in (m)), a vessel may not take Gulf groundfish without a vessel permit as described in (a). This stipulation is limited to trawl, longline, and pot gear; it exempts any other gear that may be permitted under Board of Fisheries regulations.
- (d) This section describes the qualifying years for the moratorium. It requires that a documented landing of Gulf groundfish with specified gear in specific areas be made between 1/1/98 and the effective date of this bill for issuance of a vessel permit during the moratorium.

*The Board of Fisheries first authorized a state water Pacific cod fishery—the state’s primary groundfish fishery—in 1997, and it wasn’t until 1998 that state residents took full advantage of the new fisheries; hence, 1998 was selected as the first qualifying year in order to maximize the benefits to Alaska’s residents.*

- (e) Participation of a person or a vessel in a Gulf groundfish fishery during the period of the moratorium may not be used to establish eligibility for a use privilege issued after the period of the moratorium.

*This section is intended as a disincentive for an increased “race for fish” during the moratorium.*

- (f) CFEC regulations may supercede subsections (d) –(e) if enacted by subsequent legislation authorizing such regulations.

- (g) If a vessel qualifying for a vessel permit is sunk, destroyed, or sufficiently damaged, CFEC may reissue the permit to another vessel owned by the same party. In this situation, the overall length of the new vessel may not exceed the overall length of the replaced vessel by more than 10%.
- (h) If ownership of a vessel changes hands, CFEC may reissue the Vessel Permit to the new owner.
- (i) Provides for a possible future situation in which the Board of Fisheries may adopt a vessel size restriction. This subsection would allow transfer of a vessel permit to a shorter vessel that falls within the size restriction as long as the owner of the vessel permit owns it.
- (j) Establishes annual fees by calendar year for vessel permits based on gear type: \$650 for non-pelagic or pelagic trawl, \$450 for longline, and \$250 for pot.
- (k) Directs CFEC and ADF&G to analyze appropriate management alternatives in the Gulf groundfish fisheries and submit such proposals as may be developed to the Legislature as appropriate to implement the recommendations.
- (l) Authorizes CFEC to adopt regulations as necessary to implement the moratorium.
- (m) Exempts vessels from this section while participating in the described fisheries.
- (n) Provides definitions.

Sections 10-11. Voids the repeal of 16.43.911-- which is currently to take effect July 1, 2004 -- in order to retain the ability of vessel owners to obtain fishing history information that would otherwise not be available to them if access to that information is necessary to establish eligibility for a moratorium vessel permit.

Section 12. Repeals 16.05.050(a)(19) that under current moratorium law authorizes the Commissioner of the Department of Fish and Game, if authorized by the Board of Fisheries, to petition CFEC to establish a moratorium in a fishery. *(A step that would no longer be required for initiating a moratorium under SB 347.)*

Repeals 16.05.251(g) that authorizes the Board of Fisheries to approve or disapprove a request from the Commissioner of the Department of Fish and Game to petition CFEC to establish a fishery moratorium. *(A step that would no longer be required for initiating a moratorium under SB 347.)*

Repeals 16.43.227, which authorized a moratorium in the Southeast Alaska Dungeness crab fishery. *(This is "clean up" of existing law since that moratorium has expired.)*

Repeals 16.43.228, which established a moratorium in the Southeast Alaska dive fisheries. *(This is "clean up" of existing law since that moratorium has expired.)*

Section 13. Ensures that sections 10 and 11 will be effective even if this bill is not passed and signed into law in time to beat the July 1, 2004, repeal of 16.43.911 – thus, it would "reinstate" section 16.43.911 if its repeal has taken effect prior to the effective date of this bill.

Section 14. Establishes an immediate effective date.

# Alaska State Legislature

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Senate District X

## MEMORANDUM

TO: Senator Scott Ogan, Chair  
Senate Resources Committee

FROM: Senator Ben Stevens <sup>BS</sup>

DATE: February 17, 2004

RE: Senate Bill 347

---

I respectfully request the scheduling of Senate Bill 347 "An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to the establishment of a moratorium on entry of new vessels into state groundfish fisheries in the Gulf of Alaska and adjacent state marine water; and providing for an effective date," at your earliest possible convenience.

The need to amend the current fisheries moratorium law  
Sections 2-8 of SB 347

This legislation will advance the goals of developing and protecting Alaska jobs and streamlining government and resource management by providing a tool that can be utilized, where appropriate, to avoid the risk of:

- Harm to fishery resources
- Economic distress among fishermen
- Over-capitalization
- Closure of fisheries
- A stampede of speculators (permit seekers)
- Having to go directly to permanent limitation, perhaps prematurely, if it remains the only available option.

AS 16.43.225 is the section of the Limited Entry Act authorizing CFEC to establish a moratorium on new entrants into a fishery. A moratorium is intended to provide a temporary halt in growth of a fishery during which the state and the fishing industry have an opportunity to assess the situation and explore options before deciding on permanent action.

However, the criteria and process mandated under the current statute have been so unusable that all of the moratoria implemented to date have required special legislation. In fact, the steps currently required are so cumbersome that undertaking a moratorium under the current statute could be counter-productive and could actually generate the damaging rush into a fishery that a moratorium is intended to prevent. Amendments are needed to correct the flaws in this section of law and make it available as a useful tool for fisheries management.

As fishermen diversify into new species, new fisheries are developing and, in some cases, expanding quickly. If participation levels in a given fishery are growing too rapidly, but it is not clear that imposition of limited entry is appropriate or timely, it is important to have the ability to expeditiously establish a moratorium to contain growth while analysis is done to determine what is needed to ensure the health of the fishery for the longer term. This would include assessment of whether permanent limitation of the fishery is warranted, and if so, how a limitation should be structured to be most fair, best conserve the resource, and provide for the orderly development of the fishery.

Because the current moratorium statute is inadequate, several times in recent years fishermen have had to seek passage of special legislation to statutorily enact moratoria in specific fisheries. In such cases, the lack of a workable means of quickly, administratively implementing a moratorium could have disastrous results for the fishery.

To date, 67 of Alaska's fisheries have been placed under limited entry. Over 130 permitted fisheries remain open access. Many of these will be suited to remaining unlimited in the years to come. Others will be suited to limitation under the Limited Entry Act. Still others, particularly if they experience dramatic rapid growth, may be best served by a timely moratorium, protecting the fishery while long-term solutions are explored. The latter approach will only be a realistic and workable option if AS 16.43.225 is appropriately amended.

CS for SB 347(RES)

**Discussion Points on Legislative Moratorium for Gulf Groundfish Fisheries - (Section 9)**

**ADF&G**

**3/1/04**

- The State's groundfish fisheries are currently open access fisheries.
- The North Pacific Fisheries Management Council (NPFMC) has been seriously considering rationalization of the federal Gulf of Alaska groundfish fisheries for about five years. Final action on a plan is expected late in 2005.
- NPFMC's goals with rationalization are supportable; they are intended to create incentives that slow the competitive race for fish in ways that will create economic stability for the industry and fisheries-dependent communities, that improves safety, and that can better respond to changing economic, biologic, and environmental concerns.
- While the State supports these goals, the suite of options being considered could have significant impacts to the current state water and parallel fisheries inside three miles.
- During the federal fishery, the Board of Fisheries has traditionally opened the "parallel fisheries" between 0-3 miles to allow access to fish harvested against the federal Total Allowable Catch (TAC) by federally-qualified vessels inside of state waters.
- If the federal rationalization program allocates individual harvest privileges via individual fishing quotas, cooperatives or other measures that allocate shares, and if the State maintains status quo management in its fisheries, the pressure from federal participants in state waters will likely increase. If access to the state waters and parallel fisheries are not controlled there will be an intensified race for fish, decreased efficiencies, increased economic instability for industry and fisheries-dependent communities, and issues associated with localized stock depletion and bycatch.
- The Board of Fisheries has appointed a steering committee comprised of Board members and stakeholders to analyze options for management programs in the state water and parallel Gulf groundfish fisheries to advise ADF&G and CFEC. This group is working to identify and develop constitutionally-acceptable rationalization options for consideration.
- Attempts are being made to develop a state rationalization program that would complement and not confound—if possible—the rationalized federal groundfish fisheries.
- A moratorium on effort in the state water and parallel Gulf groundfish fisheries is necessary in order to control growth during the development of a rationalization program in these fisheries.
- We support CFEC's statutory authority to enact appropriate moratoria. However, given that actions are imminent that can so strongly impact the interests of the State's Gulf groundfish fisheries, a legislative moratorium for these fisheries is recommended at this time to halt growth while options can be explored before permanent actions are taken.

## Current Moratorium Statute

### Sec. 16.43.225. Moratorium on new entrants into certain fisheries.

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

(1) that has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) that has achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

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

(1) the commissioner of fish and game, subject to AS 16.05.251 (g), petitions the commission under AS 44.62.220 to establish a moratorium on new entrants into the fishery; and

(2) the commission finds that

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

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

(c) The commission may establish a moratorium under this section for a continuous period of up to four years. A fishery that has been subject to a moratorium under this section may not be subjected to a subsequent moratorium under this section unless five years have elapsed since the previous moratorium expired.

(d) While a moratorium is in effect, the commission shall conduct investigations to determine whether a maximum number of entry permits should be established under AS 16.43.240 by

(1) conducting research into conditions in the fishery;

(2) consulting with the Department of Fish and Game and the Board of Fisheries; and

(3) consulting with participants in the fishery.

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

**General Moratorium Law**  
**Comparing Main Provisions of under Current Law with**  
**Amended Provisions under CSSB 347(RES)**

Provision	Current Law	SB 347
<p>Steps and entities required to initiate process of establishing a moratorium</p>	<p><u>16.43.225(b)</u>            Commissioner of ADF&amp;G makes findings that a moratorium would meet criteria under 16.05.050(a)(19) and must request approval from Board of Fisheries to petition CFEC for moratorium.</p> <p>Board considers request and findings at its next regular or special meeting that follows receipt of the request and that allows time for 15 days' public notice of board's intention to consider the petition. (AS 16.05.251(g))</p> <p>If Board votes to approve Commissioner's request, Commissioner may then petition CFEC for moratorium.</p> <p>CFEC may then propose a moratorium if it finds a moratorium is warranted under criteria in 16.43.225</p>	<p><u>Bill section 2 -- 16.43.225(a)</u>            CFEC may propose moratorium if it finds a moratorium would meet criteria under 16.43.225 (<i>this would be done after consultation with ADF&amp;G</i>)</p>
<p>Purpose of moratorium/conditions under which moratorium may be established</p>	<p>Listed in current 16.43.225 (a) and 225(b), and 16.05.050(a)(19)</p>	<p><u>Bill section 2</u>            Listed in new 225 (a)</p>
<p>Entities for which a moratorium in new entrants may be established</p>	<p><u>225(e)</u>            Persons</p>	<p><u>Bill sections 2 &amp; 6</u>            Persons, vessels, or both (225 (a))  <i>(Moratorium on entry of additional vessels may be essential to controlling growth of fishery during moratorium.</i>  <u>Note:</u> <i>This does not provide authority for vessel-based permanent limitation)</i></p>

<p>Additional provisions/direction:</p>	<p>Current law silent on these issues, so authority and latitude is left unclear or dependent upon "general authorities" provisions of statutes.</p>	<p><u>Bill section 7</u>  <u>225 (b) (c) &amp; (f)</u>  For fisheries involving more than one resource, gear type or area, CFEC may spell out which of those are authorized under a given moratorium permit.  <i>(Critical tool to be able to deal effectively with complex fisheries with multiple species, gears, and areas involved).</i></p> <p><u>225(g)</u>  CFEC may adopt fishing capacity restrictions for moratorium permits <i>(to avoid significant expansion of fleet's fishing power during moratorium. Could be critical in fisheries with wide range of vessel sizes)</i></p> <p><u>225 (i)</u>  CFEC shall charge annual fees for moratorium permits that reasonably reflect economic return in the fishery <i>(CFEC general authorities do not contain vessel permit fee authority - need explicit authority for vessel moratoria.)</i></p> <p><u>225 (e)(2)</u>  If moratorium established on vessels, moratorium permits are issued to owner, (as of qualification date) of qualifying vessel.</p>
<p>Question of whether participation during moratorium may count toward any future use privilege</p>	<p><u>16.43.260(f)</u>  Participation during moratorium may not be counted.</p>	<p><u>Bill section 7 --225(k)</u>  Participation during moratorium may not be counted, unless otherwise provided by law or regulation.</p>

**GEAR PROPOSED TO BE INCLUDED IN THE GROUND FISH  
UNDER THE PROPOSED GULF OF ALASKA MORATORIA**

5 AAC 39.105 (d)(10) a trawl is a bag-shaped net towed through the water to capture fish or shellfish.

5 AAC 39.105 (d) (10) (C) a pelagic trawl is a trawl where the net, or the trawl doors or other trawl spreading device, do not operate in contact with the seabed and which does not have attached to it any protective device, such as chafing gear, rollers, or bobbins, that would make it suitable for fishing in contact with the seabed.

5 AAC 39.105 (d) (11) a pot is a portable structure designed and constructed to capture and retain fish and shellfish alive in the water.  
5 AAC 28.050 (e) a groundfish pot is a pot with individual tunnel eye openings with perimeters 36 inches or less.

5 AAC 39.105 (d) (13) a longline is a stationary buoyed or anchored line or a floating, free drifting lines with lures or baited hooks attached.

Other lawful gear will not be included under the moratoria.

Comparison of federal and state water groundfish areas.

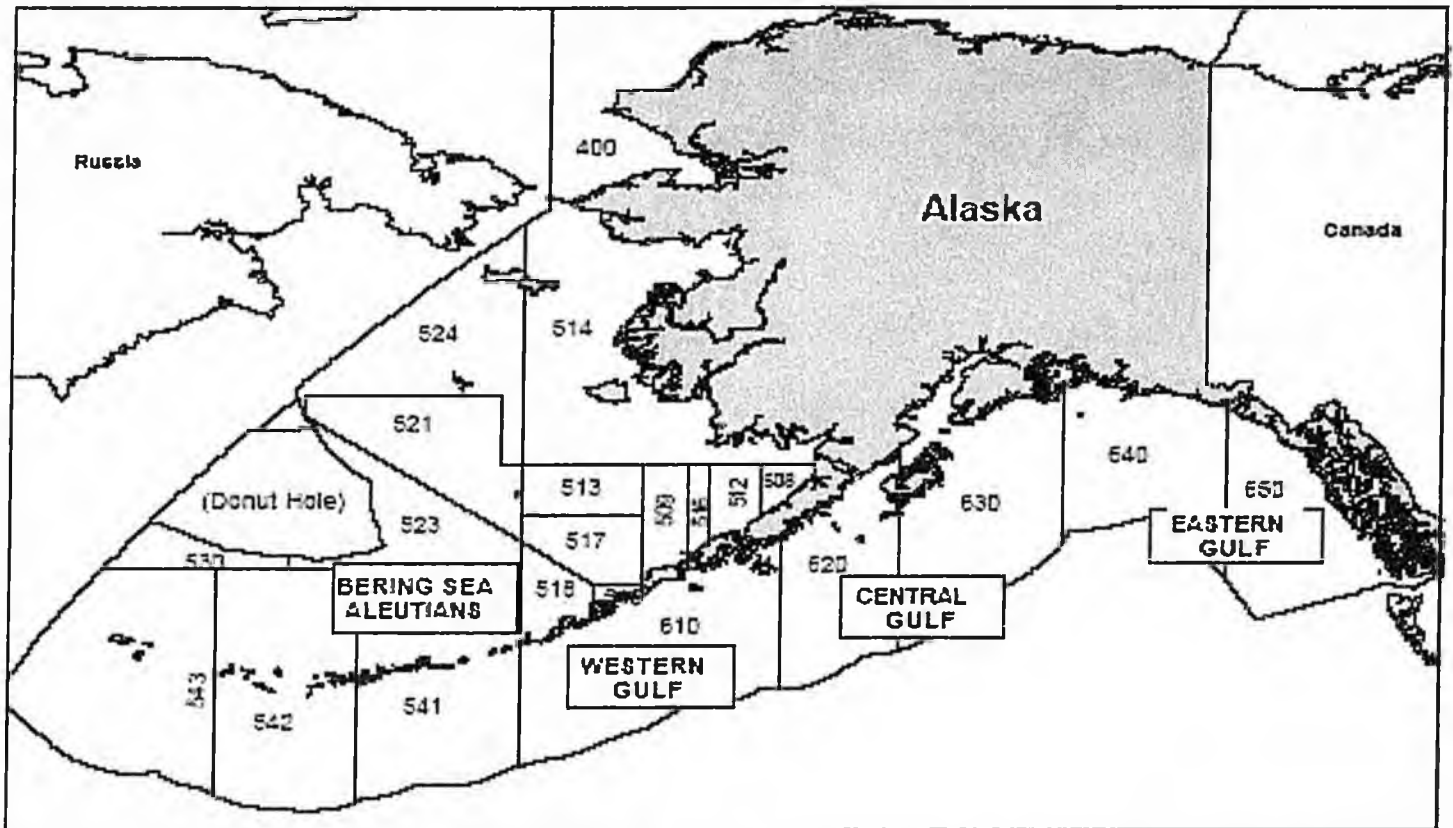


Figure 1. National Marine Fisheries Service statistical and reporting areas.

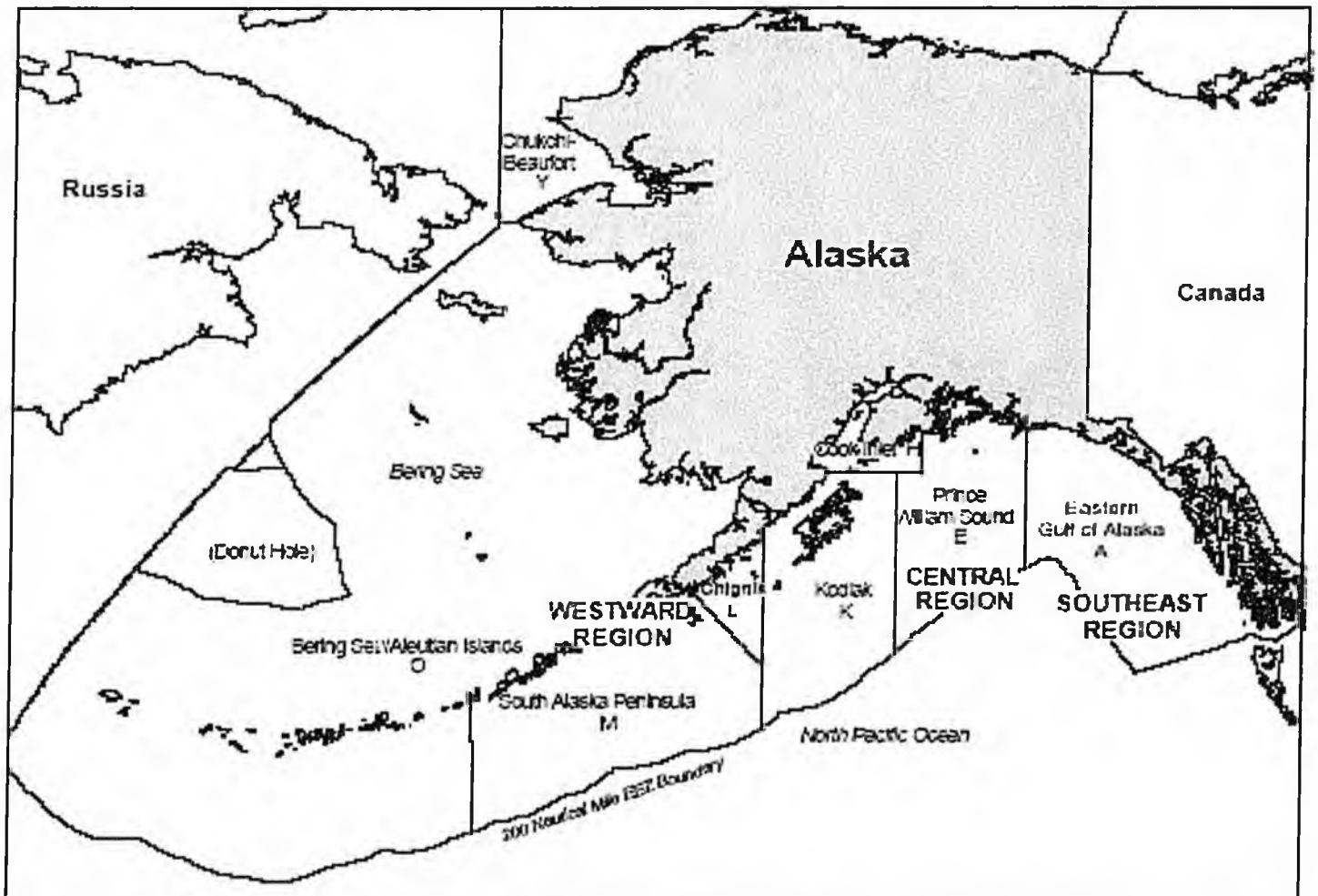


Figure 2. Alaska Department of Fish and Game groundfish registration areas and regions.

**Subject: moratorium permit**

**Date:** Mon, 1 Mar 2004 09:34:46 -0900

**From:** "David Polushkin" <davidp@mtaonline.net>

**To:** "Scott Ogan" <senator\_scott\_ogan@legis.state.ak.us>

Mr Scott Ogan,

When The Resource committee will be voting on the moratorium I would like to bring your attention to page 8 lines 30 to 31 and page 9 line 1.

The fee structure is not fair. For example the pot boats fee is \$250 some of those boats are in the 100 foot range.

The longline boats that fish in state waters are mostly 32 foot to 42 foot range and thier fee is \$450.

It is only fair if the fee is structured by boat size. For example 32 to 58 feet \$250, 58 to 70 feet \$450, 70 up \$650.

The smaller boats are all Alaska residents. There is less residents in the bigger boat catigory.

Sincerely Yours  
K-Bay Fishing Association Inc.  
President  
David Polushkin

**STATUTES REQUIRING ACTION BY BOARD OF FISHERIES & COMMISSIONER OF ADF&G TO REQUEST THAT CFEC ESTABLISH A FISHERY MORATORIUM**

**Sec. 16.05.050. Powers and duties of commissioner.**

(a) The commissioner has, but not by way of limitation, the following powers and duties: ....

(19) to petition the Alaska Commercial Fisheries Entry Commission, unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(B) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(C) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

---

**Sec. 16.05.251. Regulations of the Board of Fisheries.....**

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

Number of Unique Vessels - All Areas

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Halibut						2,774	3,247	3,777	3,925	3,642	4,206	4,409	3,452	3,393	3,450	2,057	1,962	1,925	1,601	1,613
Sablefish						371	606	868	888	768	822	887	1,123	915	1,139	517	503	504	449	433

Number of days in the fishery

Halibut Area 2C	10	7	5	5	3	4	3.5	3	4	3	2	2	5	3	3	245	245	245	245	245
Halibut Area 3A	20	13	11	7	5	5	4	3	4	4	3	2	4	2	3	245	245	245	245	245
Halibut Area 3B	20	16	18	10	6	7	5	3.5	4	4.25	2	2	4	2	3	245	245	245	245	245

Number of Unique Vessels - All Areas

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Halibut						2,774	3,247	3,777	3,925	3,642	4,206	4,409	3,452	3,393	3,450	2,057	1,962	1,925	1,601	1,613
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Halibut Area 3B	20	16	18	10	6	7	5	3.5	4	4.25	2	2	4	2	3	245	245	245	245	245

Comparison of federal and state water groundfish areas.

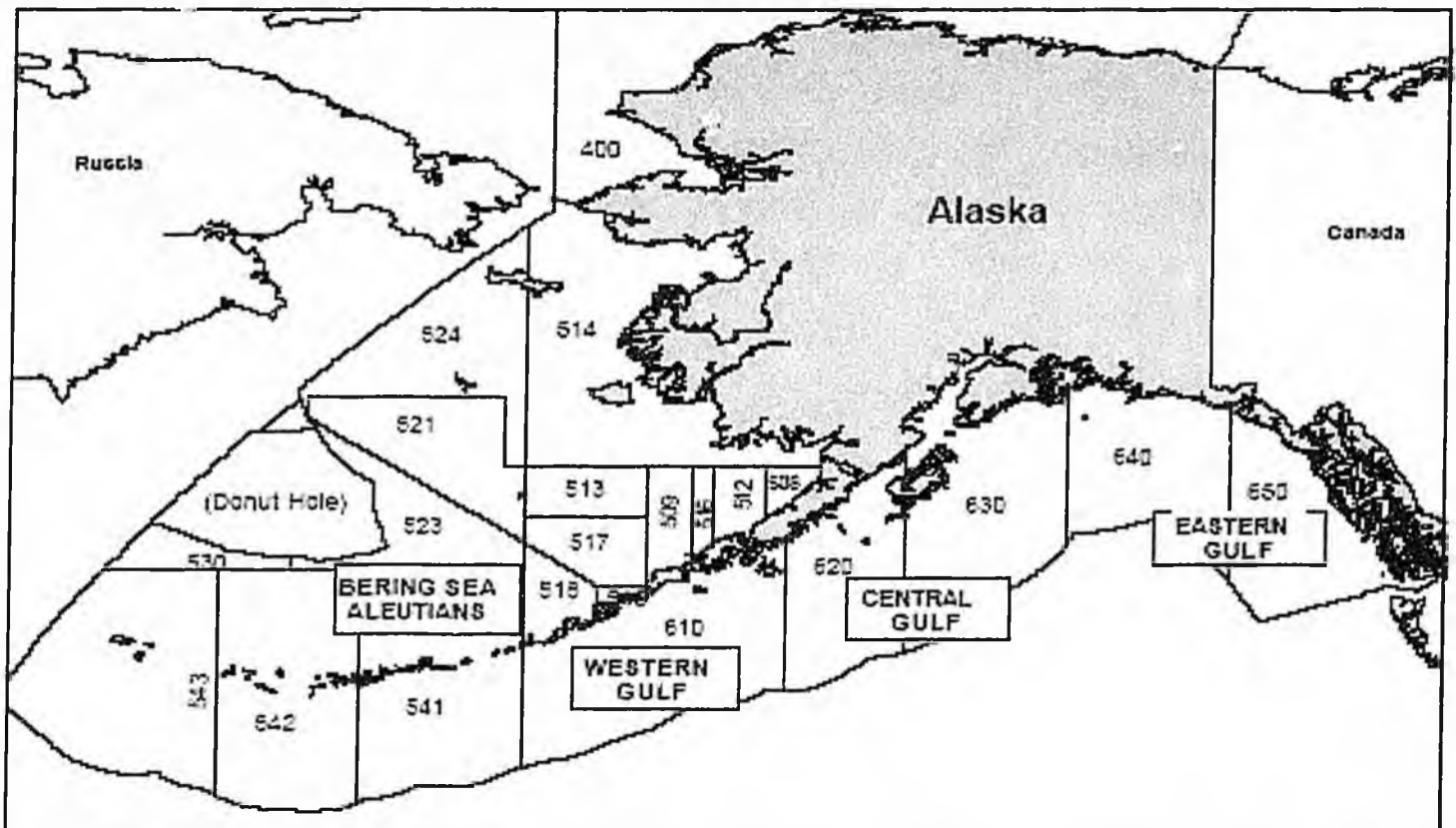


Figure 1. National Marine Fisheries Service statistical and reporting areas.

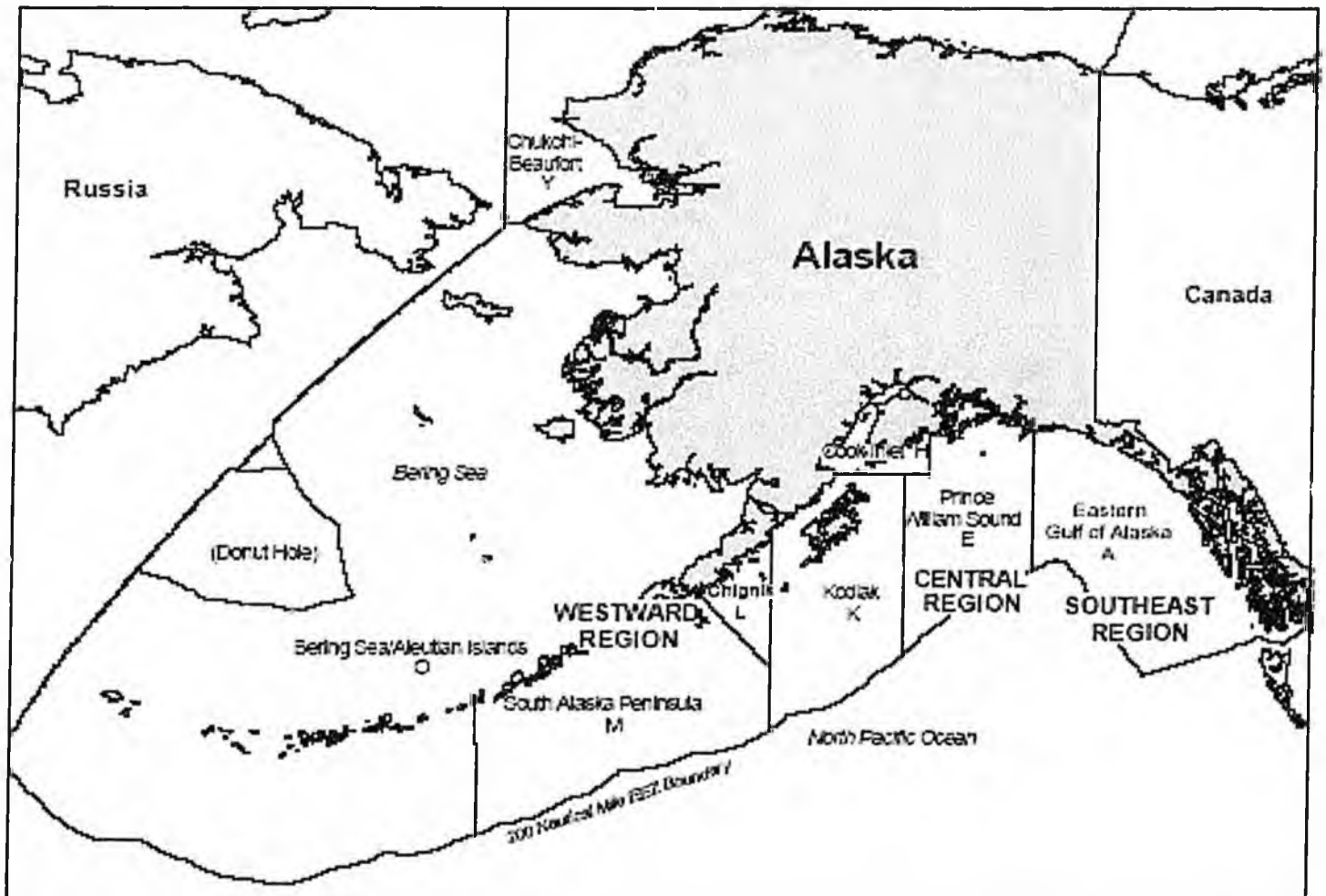


Figure 2. Alaska Department of Fish and Game groundfish registration areas and regions.

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# Petersburg Vessel Owners Association

PO Box 232

Petersburg, Alaska 99833

Phone: (907) 772-9323 Fax: (907) 772-4495

March 3, 2004

Senator Ogan, Chair  
Senate Resources Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

Dear Senator Ogan and Committee Members,

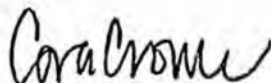
Thank you for the opportunity to provide comments as you consider SB 347. Petersburg Vessel Owners Association is a group of commercial fishermen who participate in the fisheries that would be affected by the moratorium under Section 9 of this bill. The specific concern that I would like to address today is the inclusion of Eastern Gulf of Alaska groundfish fisheries in this moratorium. The North Pacific Council decided early on in the discussion of Gulf of Alaska rationalization that the Eastern Gulf of Alaska would not be included in the program because the groundfish fisheries in our region are not in need of limitation or rationalization.

We do not have an excess of participants; we do not have derby-style fisheries, and we do not feel that rationalization in the rest of the gulf will result in problems in our area. For whatever reason, we do not, at this time, have large aggregations of pacific cod or the other groundfish species that would make directed fisheries on these species economically viable on a large scale. Therefore we don't foresee the eastern gulf being a viable alternative to those who might be displaced by a rationalization program in the rest of the gulf.

For this reason, we believe that this moratorium presents an unnecessary barrier to entry into these groundfish fisheries. If, at some future time, effort does expand in the eastern gulf and we find our fisheries in need of limitation, we should be able to avail ourselves of the CFEC moratorium process that is laid out in sections two through eight of this bill.

We can support this bill for the portion of the gulf that is subject to the federal rationalization program. However, we would ask you to consider removing fisheries one through four under section nine of this bill. Thank you for your consideration of these comments.

Sincerely,



Cora Crome  
Director

Erin Harrington  
1325 Mission Rd  
Kodiak, AK 99615

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Senator Scott Ogan  
Senate Resources Committee  
State Capitol  
Juneau, AK 99801

March 5, 2004

Chairman Ogan and Committee Members:

Thank you for the opportunity to testify on SB 347 during your March 3 hearing. As a commercial fisherman, daughter of a cod fisherman, and domestic partner of a cod fisherman, as well as a graduate student in seafood marketing and economics, my livelihood and that of my family members may be greatly affected by the actions taken by the legislature on this matter.

I would like to clarify my earlier testimony regarding this bill. As you have discussed, the bill is in two sections. My concerns about the second section hinge on your treatment of the first.

Sections 2 through 8 of SB 347 create a mechanism whereby the Commercial Fisheries Entry Commission would have the authority to implement a moratorium on Gulf of Alaska groundfish fisheries. I support efforts to give the CFEC the authority to evaluate these fisheries and take appropriate future actions.

Section 9 of the bill would establish a legislative moratorium. I presently prefer the system outlined in sections 2 through 8 to a legislative moratorium, and believe that any process of limiting access to a fishery is best handled in the CFEC. However, if the legislature feels it necessary to opt for the Section 9 moratorium, I would encourage you to *consider the inclusion of jig gear* in such a bill. An influx of permit speculators into the jig fishery has already begun and would certainly continue without its inclusion in such a moratorium. But again, let me reaffirm my belief that putting authority for future moratoria in the hands of the CFEC is preferable to a legislative moratorium.

Lastly, I would like to strongly disagree with Alvin Burch and Joe Childers, who would like to see a moratorium linked to vessels rather than permit holders. As Oliver Holm correctly stated, absentee ownership should not be a goal in any state waters fishery.

Again, I would like to thank you for the opportunity to share my views with you on this matter.

Sincerely,

  
Erin Harrington  
(907) 486-8848