

SCOMM

126:27

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 14, 2002

FURTHER REFERRALS: Resources
Finance

Date of Committee Action: 2/4/02

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 288

HOUSE BILL NO. 288

LIMITED ENTRY BUY-BACK PROGRAM

"An Act relating to commercial fisheries limited entry permit buy-back programs."

Recommends it be replaced with _____ CS _____ (____) [] Same Title [] New Title
For Senate Bills with new title: [] Technical Title [] New Title: HCR _____

[] attach amendments

[] add new referral to _____ Committee

Letter of Intent **Committee**

**List of
Abbrev.
for
Depts.:**
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LAA
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
~~Burn Kertule~~	~~KERTULE~~	X			
~~Dean Scazz~~	~~SCALZ~~	X			
~~Paul Dyr~~		X			
Mary Kapner				✓	
Chair: Peggy Wilson	Wilson	7			
Chair: Steven	STEVEN	8			



Official Business

Alaska State Legislature

REPRESENTATIVE DREW SCALZI

State Capitol

Juneau, Alaska 99801-1182

(907) 465-2689; (800) 665-2689

FAX: (907) 465-3472

Representative_Drew_Scalzi@legis.state.ak.us

Sponsor Statement

HB288: "An Act relating to commercial fisheries limited entry permit buy-back programs."

Efficiencies in commercial fishery harvest practices have increased since the inception of the limited entry program. Arguably more permits were originally issued than necessary to effectively harvest the resource for sustained yield in some areas. Alaska presently has approximately 12,000 commercial fishing permits, with about three-fourths of those owned by Alaskans. The limited entry program instituted in the early 1970s worked well for those times; however, with low prices and an excess of harvesters, it is apparent that what worked thirty years ago is splitting the pie into minute portions today.

With the advent of foreign-farmed fish, members from the Alaska commercial fishing industry are now looking at ways to consolidate efforts, maximize efficiencies, and promote better quality. One such method of consolidation is a buy-back or buy-down program.

The provision currently in statute allowing for a buy-back, requires purchase of the fishing vessel, skiff, nets, and related equipment involved in an individual's fishing operation as well as the permit. This last requirement can be cumbersome, costly, and an inherent disincentive to effectively promote a desired buy-back plan. This bill would allow for a buy-back plan that would incorporate the purchase of *permits only*, thus making it easier to clarify the costs associated with implementing such a plan. While the legislature would need to appropriate the funding to capitalize the buy-backs, the source of the funds could originate from several sources such as federal grants and permit holder self-assessment.

In no way does this legislation imply or change in existing statute the status of voluntary participation in any such buy-back.



Alaska State Legislature

Please enter into the record my testimony to the House Fisheries
committee name

Committee on HB 288/Limited entry buy-back, dated February 4, 2002
bill # / subject

I oppose spending public funds for this bill which will take much needed money away from education, transportation, public health & safety and giving it to individuals. The people who purchased these permits made a conscious business decision without any guarantees from the State as to the actual permit value. This kind of special interest Legislation clearly favors a select few at the expense of us all, and should never been introduce in the first place, let alone be seriously considered. Unless reports in the news are grossly inaccurate we don't have the money to finance these kinds of spending bills without raising new taxes. If you take an honest survey of residents, very few would support this measure. Thank you.

Signed: Michael McBride
Testifier

Self
Representing (optional)

PO Box 6 Kenai, AK 99611
Address

907 776 5444



UNITED FISHERMEN OF ALASKA

February 4, 2002

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Representative Peggy Wilson
Representative Gary Stevens
Co-Chairs
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Co-Chairs,

Re: HB 288 Limited Entry Buy-Back Program

United Fishermen of Alaska supports passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program, should it become necessary

Specifically, we support language that allows for an optimum numbers study to be completed without automatically triggering a buyback. We believe that it is prudent to conduct the optimum study and they allow the permit holders to assess their options before they move ahead with a state buyback. A second issue of concern, is that a better mechanism is needed to ensure that funds provide by fishermen for the buyback are used specifically for that purpose.

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

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

Sincerely,

Thomas M. Gemmell
Executive Director

MEMBER ORGANIZATIONS

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



ALASKA STATE LEGISLATURE

OFFICIAL BUSINESS

REPRESENTATIVE DREW SCALZI
State Capitol, Juneau
Alaska 99801-1182

(907) 465-2689; (800) 665-2689

Fax: (907) 465-3472

Email: Representative_Drew_Scalzi@legis.state.ak.us

Februray 8, 2001

To: Rep. Peggy Wilson, Co-chair
Rep. Gary Stevens, Co-chair
and Members
House Fisheries Committee

From: Rep. Drew Scalzi 

Re: HB288 – LIMITED ENTRY BUY-BACK PROGRAM

In response to your request for clarification of language referring to permit-buyback terms, I consulted UFA leadership. I was informed that UFA wants the bill as is, that is, the ability to buy-back the *permit only* is desired. Therefore the bill is accurate in its present version.

Thank you for your oversight in this matter.

DS:ph



Alaska State Legislature

Please enter into the record my testimony to the

House Fisheries

committee name

Committee on HB 288

bill # / subject

, dated Feb. 4, 2002

Problems with HB 288

HB 288 sponsors are Representatives Scalzi, Stevens, Hadson, Fate, Dyson. These Representatives have made an attempt to fix the programs problems but they have gone a little to far in that they are attempting to delete most of the original buy-back program. HB 288 retains many of the original key buy-back program elements like how the limited entry commission may establish a buy-back fund for a fishery and expend money to reduce the number of entry permits to the optimum number.

HB 288 does not carry the orginial funding source which was set at 7% and came from the permit holder. It appears to change the funding from the permit holders and to the State. This would appear to be the kiss of death to this Bill in that Alaska is currently in the financial crisis and frantically looking for ways to reduce its spending, not increase it. Sponsor statements have incorrectly alleged that the procedure of collecting funds at 7% from permit holders is unconstitutional but the Alaska Attorney General has stated that only the dedicated fund is unconstitutional.

Signed: Don Johnson

Testifier

Self

Representing (optional)

PO Box 876

Address

262-7893

Phone number

Page 2 of 4 Don Johnson testimony House Fisheries Committee 2-4-02 (continued)

Limited entry was originally designed to take care of its own problems by paying its own way, HB 288 departs from this logic by attempting to force State residents to pay for these problems. Limited entry was never intended to be a ward of the State but HB 288 appears to make it one by removing the 7% landing tax. The 7% permit tax needs to be replaced into HB 288.

HB 288 needs a clear clause which protects the public from limited entry impinging on it. The original buy-out intent was very concerned with reaching the optimum number of permits to impinge as little as possible on the open fishery clauses consistent with the constitutional purposes of limited entry.

The following clause would be appropriate within HB 288 :

" The limited entry commission shall maintain permit numbers to impinge as little as possible on common use fisheries."

The Alaska Supreme Court has ruled :

" We suggested that to be constitutional, a limited entry system should impinge as little as possible on the open fishery clauses consistent with the constitutional purposes of limited entry. The optimum number provision of the Limited Entry Act is the mechanism by which limited entry is meant to be restricted to its constitutional purposes. Without this mechanism, limited entry has the potential to be a system which has the effect of creating an exclusive fishery to ensure the wealth of permit holders and permit values, while exceeding the constitutional purposes of limited entry. Because this risk of unconstitutionality exists, the Commercial Fisheries Entry Commission should not delay in embarking on the optimum number process, except where there is a substantial reason for doing so. "

[Alaska Supreme Court, State v. Ostrosky, 667 P.2d 1184 (Alaska 1983)]

[Alaska Supreme Court, McDowell v. State, page 10 (Alaska 1989)]

Below is a letter I sent to Senator Taylor on HB 288. Please pay particular attention to my new wording which is in **bold print** "The commission shall maintain permit numbers to impinge as little as possible on common use fisheries."

Page 3 of 4 Don Johnson testimony House Fisheries Committee 2-4-02 (continued)

Senator Taylor

I have gone over HB 288 and I am questioning why so much of AS 16.43.310 & AS 16.43.310 must be repealed? Alaska's current buy-back program only had a small problem with the dedicated nature of the buy-back fund. Why repeal more than half of the current program to fix the dedicated fund problem?

I have replaced the original wording back into a copy of HB 288 below.

There appears to be no reason to remove this wording. If there is a reason to remove the wording in bold print below, could you please let me know.

If HB 288 were left as is I am afraid we will not make the buy-back program better.

Thank you.

HOUSE BILL NO. 288

07 fishery, the commission " shall "establish a buy-back program and a buy-back fund
08 for that fishery." When"commission establishes a buy-back program for a fishery, the
09 commission shall request the legislature to appropriate money to capitalize the
10 buy-back fund. The commission shall expend money in a buy-back fund for the
11 purpose of reducing the number of entry permits in the fishery to the optimum
12 number "within no more than 5 years, at a rate to be established by the commission."

"13 "(b) For each buy-back fund, the commission shall adopt regulations
14 establishing annual assessments on holders of entry permits of not more than
15 seven per cent of the gross value of the total annual catch attributable to a
16 holder's entry permit, except that the holder of a permit who has made no
17 commercial landings in a given year will be assessed the average assessed
18 all other holders of the same type of permit in that year. Assessments shall be
19 paid directly into the States General Fund. "

20 " (c) Assessments need not equal annual buy-back fund expenditures within a
21 particular fishery but shall be continued until the buy-back fund for that fishery
23 has been reimbursed."

24 * Sec. 2. AS 16.43.320 is repealed and reenacted to read:

25 Sec. 16.43.320.

26 a.) Administration of the buy-back program. The Commission
27 shall adopt regulations providing for the purchase of transferable entry permits
28 with money in the buy-back fund for each fishery. "The commission shall maintain
29 permit numbers to impinge as little as possible on common use fisheries."

AS 16.43.310. Establishment of Buy-Back Funds.

(a) When the optimum number of entry permits is less than the number of entry permits outstanding in a fishery, the commission shall establish and administer a buy-back fund for that fishery for the purpose of reducing the number of entry permits to the optimum number within no more than 10 years, at a rate to be established by the commission.

Page 4 of 4 Don Johnson testimony House Fisheries Committee 2-4-02 (continued)

(b) For each buy-back fund, the commission shall adopt regulations establishing annual assessments on holders of entry permits of not more than seven per cent of the gross value of the total annual catch attributable to a holder's entry permit, except that the holder of a permit who has made no commercial landings in a given year will be assessed the average assessed all other holders of the same type of permit in that year.

Assessments shall be paid directly into the States General Fund.

(c) Assessments need not equal annual buy-back fund expenditures within a particular fishery but shall be continued until the buy-back fund for that fishery has been reimbursed.

AS 16.43.320. Administration of the Buy-Back Program.

(a) The commission shall adopt regulations providing for the purchase of entry permits, vessels, and gear at fair market value with money accumulated in the buy-back fund for each fishery. The buy-back program for a fishery shall terminate when the number of entry permits is reduced to the optimum and the buy-back fund has been reimbursed.

(b) When entry permits subject to the restrictions in AS 16.43.250

(c) and the vessels and gear related to those permits are offered for sale to the commission,

the commission shall purchase the permits and related vessels and gear at fair market value, if sufficient funds are available in the appropriate buy-back fund. "



United Southeast Alaska Gillnetters
PO Box 22427
Juneau, Alaska 99802
(907) 586-5860 Fax (907) 586-0167
E-mail: usag@gci.net

February 6, 2002

Representative Peggy Wilson
Representative Gary Stevens
Co-Chairs
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Co-Chairs,

Re: HB 288 Limited Entry Buy-Back Program

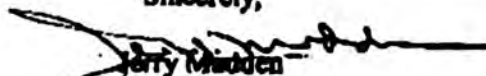
United Southeast Alaska Gillnetters (USAG) supports passage of this bill to clean up existing statutory language that impedes effective and timely implementation of a limited entry permit buyback program, should it become necessary

Specifically, we support language that allows for an optimum numbers study to be completed without automatically triggering a buyback. We believe that it is prudent to conduct the optimum study and they allow the permit holders to assess their options before they move ahead with a state buyback. A second issue of concern is that a better mechanism is needed to ensure that funds provide by fishermen for the buyback are used specifically for that purpose.

The 100 plus members of USAG urge your support in passing this bill.

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

Sincerely,


Jerry Madden
Executive Director