

SCOMM

#36:26

IDENTIFICATION

BILL NAME

An act relating to the licensing of commercial fishing; and providing for an effective date.

BILL NUMBER

CS SB 52 (Res) am

DATE INTRODUCED

4/15/83

RELATED BILLS PENDING

SPONSOR(S)

Mulcahy

REFERRALS

Special Committee on State Resources

INITIAL RESEARCH

INITIAL SUMMARY COMPLETED

LEGAL DIVISION SUMMARY

SPONSOR CONTACTED FOR BACKUP MATERIALS

DEPT OF LAW SUMMARY

AGENCY RESPONSE

FISCAL NOTE

OTHER INTERESTED LEGISLATORS NOTIFIED

BACKGROUND RESEARCH

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC

RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS

HEARING PREPARATION

CHAIRMAN BRIEFED

DATE & PLACE SET

STAFF MEMO TO COMMITTEE

TELECONFERENCE

BACKGROUND MATERIAL DISTRIBUTED

PSA/PRESS RELEASE

LIST OF WITNESSES

SUGGESTED AMENDMENTS/CS DRAFTED

CS SB 52 (Res) am

COMMITTEE REPORT

HOUSE

HOUSE SPECIAL
COMMITTEE ON
STATE LOANS

FURTHER:

RESOURCES

(7)

6/1/83

Date: February 23, 1984

Mr. Speaker:

HOUSE SPECIAL COMMITTEE
ON FISHERIES

The Committee on

has had

CSSB 52 (Res) am

"An Act relating to the licensing of commercial fishing; and providing for an effective date."

under consideration and reports it back as follows:

do pass

do not pass

do pass with attached amendments(s)

replace with CS for _____

same title
 new title

and recommends _____

AND attaches a "Letter of Intent"

New Fiscal Note

reports it back without recommendation

Zero Fiscal Note Attached

referred to the _____

Committee

MEMBERS SIGNING

DO PASS

Paul G. Zboroff
Hubert S. Savelle
John D. Stalk
Peter J. Gore

MEMBERS HAVING

OTHER RECOMMENDATIONS:

John G. Stalk
CHAIRMAN

Offered: 4/15/83
Referred: Finance

Original sponsor: Mulcahy

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 52 (Resources) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the licensing of commercial
7 fishing; and providing for an effective date."

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

9 * Section 1. AS 16.05.450(a) is amended to read:

10 (a) The commissioner of revenue or the commissioner's [HIS]
11 authorized agent shall issue a crewmember fishing license under
12 AS 16.05.485 [AS 16.05.480] to each qualified person who files a
13 written application at a place in the state designated by the commis-
14 sioner, containing the reasonable information required by the commis-
15 sioner together with the required fee. The application shall be
16 simple in form and shall be executed by the applicant under the pen-
17 alty of perjury.

18 * Sec. 2. AS 16.05.460 is amended to read:

19 Sec. 16.05.460. COMMISSIONER OF REVENUE MAY APPOINT AGENTS. The
20 commissioner of revenue may appoint qualified [PERSONS AS HIS] agents
21 to receive applications, issue licenses, and collect license fees
22 under AS 16.05.440 - 16.05.485 [AS 16.05.440 - 16.05.480], and to
23 assist in the completion of annual application or renewal forms for
24 interim-use permits and entry permits issued under AS 16.43.

25 * Sec. 3. AS 16.05.470 is amended to read:

26 Sec. 16.05.470. AGENT'S FEE FOR ISSUANCE OF LICENSES AND ASSIS-
27 TANCE [INTERIM-USE OR ENTRY PERMITS]. (a) A person appointed and
28 authorized by the commissioner of revenue to sell licenses under
29 AS 16.05.440 - 16.05.485 [AS 16.05.440 - 16.05.480], except salaried

1 employees of the state, shall retain the sum of 15 percent of the fee
2 for the issuance of a license. An agent shall transmit monthly to the
3 commissioner all license fees collected by the agent [HIM], less the
4 authorized commission, together with a full accounting of the fees.
5 The commissioner shall make monthly remittances of the fees collected
6 to the proper state official. The commissioner [IS NOT LIABLE FOR
7 DEFALCATION OR FAILURE TO ACCOUNT FOR THE FEES COLLECTED BY AN AGENT,
8 BUT HE] shall require a bond in the sum the commissioner [HE] con-
9 siders adequate, conditioned upon the faithful accounting of money
10 collected.

11 (b) A person appointed by the commissioner of revenue under
12 AS 16.05.460 to issue licenses under AS 16.05.440 - 16.05.485 [AS 16.-
13 05.440 - 16.05.480], except salaried employees of the state, shall
14 retain the sum of 15 percent of the interim-use or entry permit fee
15 for assisting in completion of the annual application or renewal form
16 for the interim-use or entry permit, as provided by regulations of the
17 Commercial Fisheries Entry Commission. An agent shall transmit
18 promptly to the Commercial Fisheries Entry Commission all application
19 or renewal forms and fees collected by the agent [HIM], less the
20 authorized commission, together with a full accounting of the fees.
21 The commissioner [AND THE COMMERCIAL FISHERIES ENTRY COMMISSION ARE
22 NOT LIABLE FOR DEFALCATION OR FAILURE TO ACCOUNT FOR THE FEES COL-
23 LECTED BY AN AGENT, BUT THE COMMISSIONER] shall require a bond in the
24 sum the commissioner [HE] considers adequate, conditioned upon the
25 faithful accounting of money collected.

26 * Sec. 4. AS 16.05.480 is repealed and reenacted to read:

27 Sec. 16.05.480. COMMERCIAL FISHING LICENSE. (a) A person
28 engaged in commercial fishing shall obtain a commercial fishing li-
29 cense. The annual fee for the license is \$15 for a resident who is

1 eligible for an entry permit or interim-use permit under AS 16.43.-
2 160(c) or who is eligible for a \$15 crewmember fishing license under
3 AS 16.05.485(a). The annual fee for a commercial fishing license for
4 all other residents is \$30. The annual fee for a commercial fishing
5 license for a nonresident is \$90.

6 (b) A commercial fishing license is included in and need not be
7 issued separately from a crewmember fishing license issued under
8 AS 16.05.485 and an entry permit or interim-use permit issued, re-
9 newed, or transferred under AS 16.43. The annual fee for a commercial
10 fishing license is included in the annual fee for a crewmember fishing
11 license issued under AS 16.05.485 and the first fee paid during a
12 calendar year for an entry permit or interim-use permit issued or
13 renewed under AS 16.43.

14 * Sec. 5. AS 16.05 is amended by adding a new section to read:

15 Sec. 16.05.485. CREWMEMBER FISHING LICENSE. (a) A person
16 engaged in commercial fishing who does not hold a valid entry permit
17 or interim-use permit issued, renewed, or transferred under AS 16.43
18 shall obtain a crewmember fishing license. The annual crewmember
19 fishing license fee is \$15 for a resident who has a net family income
20 falling within the Federal Community Services Administration poverty
21 guidelines, adjusted by the Department of Revenue to reflect appropri-
22 ate cost-of-living differentials. The annual crewmember fishing
23 license fee for all other residents is \$30. The annual crewmember
24 fishing license fee for a nonresident is \$90.

25 (b) A crewmember fishing license is nontransferable and shall be
26 retained in the possession of the licensee, readily accessible for
27 inspection at all times.

28 (c) A person applying for a resident crewmember fishing license
29 under this section shall provide the proof of residence that the

1 Department of Revenue requires by regulation.

2 (d) If a valid crewmember fishing license issued under this
3 section is lost or destroyed, the person to whom the license was
4 issued may, upon payment of a \$2 fee, obtain a duplicate license. A
5 person who recovers an original license for which a duplicate has been
6 issued shall immediately surrender the duplicate to the Department of
7 Revenue.

8 * Sec. 6. AS 16.05.680(1) is amended to read:

9 (1) to employ a person [HAVE IN HIS EMPLOY,] in the har-
10 vesting, transporting or purchasing of fish unless the person [, A
11 FISHERMAN WHO NEITHER] is licensed under AS 16.05.485 or [AS 16.05.480
12 NOR] is the holder of a permit issued under AS 16.43,

13 * Sec. 7. AS 16.05.710 is repealed and reenacted to read:

14 Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second
15 conviction of a person for a violation of AS 16.05.440 - 16.05.720 or
16 a federal or state law or regulation for the protection of the commer-
17 cial fish of the state, the court may, in addition to the penalty
18 imposed by law, order

19 (1) a forfeiture of a crewmember fishing license, interim-
20 use permit, or entry permit held by the person;

21 (2) a loss of eligibility to hold a crewmember fishing
22 license, interim-use permit, or entry permit for a period of not more
23 than one year; and

24 (3) a suspension of fishing rights under a crewmember
25 fishing license, interim-use permit, or entry permit for a period of
26 not more than one year.

27 (b) Upon a third conviction, the court may, in addition to the
28 penalty imposed by law, order

29 (1) a forfeiture of the crewmember fishing license,

1 interim-use permit, or entry permit held by the person;

2 (2) a loss of eligibility to hold a crewmember fishing
3 license, interim-use permit, or entry permit for a period of not more
4 than three years; and

5 (3) a suspension of fishing rights under a crewmember
6 fishing license, interim-use permit, or entry permit for a period of
7 not more than three years.

8 * Sec. 8. AS 16.10.310(a)(1)(A) is amended to read:

9 (A) individual commercial fishermen who have been
10 state residents for a continuous period of five years immediately
11 preceding the date of application for a loan under AS 16.10.300 -
12 16.10.370 and have had a crewmember [OR COMMERCIAL] fishing
13 license under AS 16.05 [AS 16.05.480] or a permit under AS 16.43
14 for any one of the past five years, and who actively participated
15 in the fishery during that period, for the purchase of entry
16 permits;

17 * Sec. 9. AS 16.10.310(a)(1)(C) is amended to read:

18 (C) corporations, partnerships, or joint ventures, 100
19 percent of which are owned by individual commercial fishermen who
20 have been state residents for a continuous period of five years
21 immediately preceding the date of application for a loan under
22 AS 16.10.310(a)(1)(B) and have had a crewmember [OR COMMERCIAL]
23 fishing license under AS 16.05 [AS 16.05.480] or a permit under
24 AS 16.43 for any one of the past five years, and who actively
25 participated in the fishery during that period, for the repair,
26 restoration or upgrading of existing vessels and gear, for the
27 purchase of gear, and for the construction and purchase of ves-
28 sels;

29 * Sec. 10. AS 16.43.160(a) is amended to read:

1 (a) The commission shall establish annual fees for the issuance
2 and annual renewal of entry permits or interim-use permits. [THE
3 AMOUNT PAID BY A PERMIT HOLDER UNDER THE PROVISIONS OF AS 16.05.480
4 SHALL BE CREDITED BY THE COMMISSION TOWARD PAYMENT OF THE FEE CHARGED
5 UNDER THIS SECTION. NO MORE THAN ONE CREDIT MAY BE OBTAINED ANNUALLY
6 BY A PERSON.]

7 * Sec. 11. AS 16.43.160(b) is amended to read:

8 (b) Except as provided in (c) of this section, annual [ANNUAL]
9 fees established under this section shall be not [NO] less than \$30
10 nor [\$10 AND NO] more than \$750 and shall reasonably reflect the
11 different rates of economic return for different fisheries. The
12 amount of an annual fee for a nonresident shall be three times the
13 amount of an annual fee for a resident.

14 * Sec. 12. AS 23.35.060 is amended to read:

15 Sec. 23.35.060. CREATION AND ADMINISTRATION OF FISHERMEN'S FUND.
16 There is created a fund, designated as the "fishermen's fund." The
17 Department of Revenue is the custodian of the fund and the Department
18 of Labor shall administer it. The fund shall be composed of 60 per-
19 cent of the money derived by the state from all commercial fishing
20 [FISHERMEN'S] licenses required under AS 16.05.480 and money appropri-
21 ated to carry out the purpose of AS 23.35.

22 * Sec. 13. AS 23.35.150(4) is amended to read:

23 (4) "fisherman" means a person who is licensed by the state
24 to engage in commercial fishing under AS 16.05 [AS 16.05.480] or who
25 is the holder of a permit issued under AS 16.43 and who, at the time
26 injury is sustained or illness is contracted, is actually so engaged
27 or is occupied in Alaska in preparing or dismantling boats or gear
28 used in commercial fishing;

29 * Sec. 14. AS 43.75.017(1) is amended to read:

1 (1) the vessel is operated as a commercial fishing vessel
2 by a person holding [UNDER] a valid entry permit or interim-use permit
3 issued, renewed, or transferred under AS 16.43, or a valid crewmember
4 [COMMERCIAL] fishing license issued under AS 16.05.485;

5 * Sec. 15. AS 44.81.210(a)(20) is amended to read:

6 (20) make loans to individual commercial fishermen for
7 limited entry permits; a loan under this paragraph may be made only to
8 an individual commercial fisherman who has been a state resident for a
9 continuous period of five years immediately preceding the date of
10 application for the loan and who has had a crewmember [OR COMMERCIAL]
11 fishing license under AS 16.05 [AS 16.05.480] or a permit under
12 AS 16.43 for any one of the past five years, and who has actively
13 participated in the fishery during that period; loans made under this
14 paragraph are subject to the provisions of AS 44.81.230;

15 * Sec. 16. This Act takes effect January 1, 1984.

16

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Rep. Adelheid Herrmann, Chair
House Committee on Fisheries

FROM: Sen. Eliason *Dick E*

DATE: June 10, 1983

RE: SB 52---Relating to the licensing of commercial fishing

When CSSB 52(res) was on the Senate floor we deleted some language regarding charging of interest on limited entry permit renewal fees.

Since that time I have received some suggested new language from the Entry Commission. I believe this suggestion to add this more specific language is a good one. I have attached a copy of the Entry Commission's memo for your information.

I urge your favorable consideration of inclusion of the Commission's proposed amendment when your committee considers CSSB 52.

Thank you.

MEMORANDUM


State of Alaska

TO: John Williams
Chairman

DATE: June 6, 1983

FILE NO:

TELEPHONE NO:

FROM: Sharman Haley 
Special Assistant

SUBJECT: Amendments to SB 52

You have asked that I draft language authorizing the Commission to charge interest on fee arrearages to replace the language deleted from CSSB 52(Res) on the floor of the Senate. The language should apply to the fee arrearages of nonresidents who have been paying resident fees, and not to persons who fail to renew their permit one year and make it up the next.

The following draft language would insert at the end of AS 16.43.160(b) (CSSB 52 am Sec. 11):

The commission may charge interest on any unpaid fees due at the rate provided by AS 45.45.010(a) from the date of permit renewal.

This language would not apply to persons who choose not to renew their permit in a given year, then in the following year renew it for both years, because the fees do not become due and interest is not accrued until the time of actual permit renewal in the second year. The language would only apply in those few cases where the renewal application appeared to be in order with fees paid and the permit actually renewed by the commission before it was determined that additional fees are due, as in the case of a subsequent finding of nonresidency.

SH/dw

Proposed Amendments to CSSB 52 (Res) am
To Address CFEC Concerns

Page 1, lines 22 - 24

delete "and to assist in the completion of annual application or renewal forms for interim use permits and entry permits issued under AS 16.43"

Page 1, line 27

delete "(a)"

Page 2, lines 11 - 25

delete entire subsection

Proposed amendments to CSSB 52 (Res) am

To conform with HB 15 of Last Session

Page 5, line 10

delete "five"
insert "two"

Page 5, line 14

delete "anyone"
insert "the year immediately preceding the date of application and any other two"

Page 5, line 20

delete "five"
insert "two"

Page 5, line 24

delete "anyone"
insert "the year immediately preceding the date of application and any other two"

Page 7, line 9

delete "five"
insert "two"

Page 7, line 12

delete "anyone"
insert "the year immediately preceding the date of application and any other two"

Amendments to CSSB 52 (Res) am

Adopted by Fisheries Committee - 2/16/84

Page 6, line 13

insert after, "resident."

"The commission may charge interest on any unpaid fees due at the rate provided by AS 45.45.010(a) from the date of permit renewal."

Page 4, line 20

insert after, "person"

"for a period of not more than one year"

Page 5, line 1

insert after, "person"

"for a period of not more than one year"

Page 7, line 15

delete "1984"

insert "1985"

Amendments to CSSB 52 (Res) am

Adopted by Fisheries Committee - 2/16/84

Page 6, line 13

insert after, "resident."

"The commission may charge interest on any unpaid fees due at the rate provided by AS 45.45.010(a) from the date of permit renewal."

Page 4, line 20

insert after, "person"

"for a period of not more than one year"

Page 5, line 1

insert after, "person"

"for a period of not more than one year"

Page 7, line 15

delete "1984"

insert "1985"



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Fish and Game	Sponsor (Principal) Mulcahy	Bill Number SB 52
Department Position Support		
Division Director Steven Pennoyer S.P.	Date 1/21/83	Commissioner's Signature Don W. Collinsworth
		Date 1-24-83

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) Unknown	1. b) Other Agencies Affected by Bill Unknown
2. a) Organizational Support for Bill Unknown	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill
None

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:
None

6. Comments:
The bill eliminates present confusion over what type of license is required for persons involved in commercial fishing activities.

Position Papers

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE:

(907) 465-4210

February 2, 1982

The Honorable Bob Mulcahy
Alaska State Senate
Pouch V, Capitol Building
Juneau, AK 99811

Dear Senator Mulcahy:

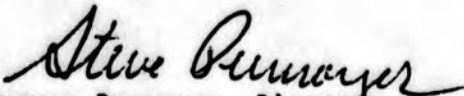
This is in response to your request for a review of a proposed bill entitled "An act relating to the licensing of commercial fishing; and providing for an effective date."

I am pleased that you are submitting this bill and hope that it will be adopted this session. There has been some confusion on the part of the public as to licensing requirements due to the ambiguity of present statutes. This ambiguity has also been used by some attorneys to argue against revocation of their clients CFEC permits. (See *Prettyman v. State*, No. 3D1-81-178, Court of Appeals No. 6224, Appeal from the District Court.) It has always been the position of the Department and the Board of Fisheries that fines and penalties should be strong enough to deter illegal fishing activities. Your bill should help in this area.

I do have some specific comments. Section 4, AS 16.05.480(b) is a bit confusing. The subsection should state more clearly that the commercial fishing license requirement is satisfied by the purchase of a crewmembers license or a CFEC permit. Section 5, AS 16.05.485(c): we do not define residency, but use the definition found in AS 16.05.940(14). The "department" referred to in AS 16.04.480(b) is the Department of Revenue. It would be best to specify the Department of Revenue rather than this department.

I thank you for the opportunity to review the draft bill. If I can be of further assistance please call me or Bob Clasby, my Regulation Specialist.

Sincerely,



Steven Pennoyer, Director
Division of Commercial Fisheries



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Fish and Game	Sponsor (Principal) Mulcahy	Bill Number SB 755
Department Position Favor		
Division Director Steven Penoyer	Date 2/17/82	Commissioner's Signature <i>Robert U. Skoog</i> Date 2-19-82

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 658	1. b) Other Agencies Affected by Bill CFEC, F&WP
2. a) Organizational Support for Bill Unknown	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill
None

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:
None

6. Comments:
This bill will clarify commercial fishing licensing procedures.

MEMORANDUM

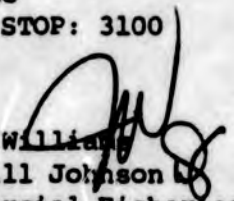
State of Alaska

TO: The Honorable Bob Mulcahy
Senate
MAIL STOP: 3100

DATE: January 25, 1983

FILE NO:

TELEPHONE NO:

FROM: John Williams 
Derrill Johnson
Commercial Fisheries Entry Commission
MAIL STOP: 0302

SUBJECT:

As requested by your office, the following comments are offered by the Entry Commission regarding the above referenced working draft. As we indicated last session, the Commission supports your clarification of Title 16, regarding crewmember licensing, commercial licensing and their relationship to interim-use and entry permits. We offer the following technical suggestions:

1. Sec. 16.05.470(b) page 2, line 16, should read, "...for the interim use or entry permit as specified by regulation."

Reason: Commission regulation 20 AAC 05.980, Assistance by Designated Agent, spells out exactly what constitutes assistance for which a 15% retention is allowed.

2. Sec. 16.05.710, License Forfeiture (a) (1) page 4, line 18, should read "(1) a forfeiture of all rights to a crewmember fishing license,"...and (b) (1) line 28, same page should read: "(1) a forfeiture of all rights to a (the) crewmember fishing license,"...

Reason: A recent Alaska Court of Appeals decision (Prettyman v. State, Opinion No. 175, October 6, 1982) has highlighted an inadvertent limitation on criminal sentencing which this section neatly corrects. The addition of the passage is suggested by John Grissberg of the Department of Law.

3. Sec. 8. AS 16.10.310, as you no doubt are aware, needs to comply with the durational requirement change in residency.

4. Sec. 14, AS 43.75.017 (1) page 7, line 3, should read: "by a person holding a valid commercial license or crewmember license, or entry permit or interim-use permit..."

Reason: A commercial license or crewmember license holder can operate a vessel engaged in fishing as long as there is a permit holder on board. The commercial license/crewmember may even own the vessel. A vessel utilized as a tender or processor must have licensed personnel on board, but not a permit holder.

5. Sec. 15. AS 44.81 210(a) (20), See our comments in suggestion No. 3.

6. During the second half of the 12th legislature, legislation cleaning up foreclosure procedures in the State commercial fisheries loan program was passed. It is suggested that a similar amendment be proposed to cleanup the C.F.A.B. loan program. Because you are

proposing to amend this statute in Sec. 15, you may wish to consider rewriting AS 44.81.250(c) to remove unworkable provision for assumption of foreclosed notes and allow C.F.A.B. the greatest flexibility possible to protect their members against financial loss.

JW:DJ:dan



Alaska State Legislature
House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811
(907) 465-4924

CHAIRMAN
ADELHEID HERRMANN
VICE-CHAIRMAN
JACK FULLER
MEMBERS
CHARLIE BUSSELL
BEN GRUBENDORF
PETER GOLL
JACK MCBRIDE
FRED ZHAROFF

MEMORANDUM

TO: Special Committee on Fisheries Members
FROM: Mel *Morison*
DATE: March 8, 1984
SUBJECT: SB 52, Section 7 (License Forfeiture)

The current license forfeiture statute (AS 16.05.710) allows the forfeiture of commercial fishing licenses for violations of AS 16.05.440 - 16.05.720 (Attachment 1). Included in the definition of commercial fishing licenses are interim-use and entry permits.

In SB 52, Section 7, the license forfeiture statute is rewritten and during the Fisheries Committee discussion of this bill, concern was raised that forfeiture of an entry permit may be overly harsh (Attachment 2). To address this problem, the Committee amended the bill so that first and second conviction forfeitures can be for only one year and third conviction forfeitures can be for only three years (Attachment 3).

After researching this statute and discussing it with Legal Services (Ed Hein), several interesting points have been raised. First, forfeiture is not for a time period and should not have a time limit attached. If the Committee wants to limit the time period, a suspension should be used. Second, the license forfeiture language was enacted before limited entry and at that time forfeiture only meant giving up an annual and inexpensive license, not an expensive fishing privilege.

In order to address the Committee concerns with the section, I have drafted two options for the license forfeiture section. Under the first option, the court would have the option of suspension of permits for one year for first or second offenses and for three years for the third offense (attachment 4). Of course, the crewmember license could still be forfeited, but no forfeiture of permits for violation of 16.05 would be allowed.

Committee Members

March 8, 1984

Page Two

The second option is more strict and still allows for forfeiture of permits (attachment 5). Under first and second offenses, the available penalties are the same as the first option, but upon a third conviction, the courts have the option of forfeiting the permit permanently.

SB 52 is in the House Resources Committee at the present time and is on hold while the license forfeiture questions are answered. Once a decision is reached, a committee substitute can be drafted which includes both the Fisheries Committee amendments and any changes to Section 7. I will contact your offices shortly after you receive this memo to get direction on this issue.

ATTACHMENT #1

Sec. 16.05.710. License forfeiture. Upon a first or second conviction of a person for a violation of AS 16.05.440 — 16.05.720 or a federal or state law or regulation for the protection of the commercial fish of the state, the court may, in addition to the penalty imposed by law, forfeit the commercial fishing license of the person for a period of one year. Upon a third conviction, the court may, in addition to the penalty imposed by law, forfeit the commercial fishing license for a period not to exceed three years. (§ 11 art III ch 94 SLA 1959; am § 1 ch 112 SLA 1961; am § 1 ch 75 SLA 1966)

ATTACHMENT #2

* Sec. 7. AS 16.05.710 is repealed and reenacted to read:

Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second conviction of a person for a violation of AS 16.05.440 - 16.05.720 or a federal or state law or regulation for the protection of the commercial fish of the state, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of a crewmember fishing license, interim-use permit, or entry permit held by the person;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than one year; and

(3) a suspension of fishing rights under a crewmember fishing license, interim-use permit, or entry permit for a period of not more than one year.

(b) Upon a third conviction, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of the crewmember fishing license, interim-use permit, or entry permit held by the person;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than three years; and

(3) a suspension of fishing rights under a crewmember fishing license, interim-use permit, or entry permit for a period of not more than three years.

ATTACHMENT #3

Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second conviction of a person for a violation of AS 16.05.440 - 16.05.720 or a federal or state law or regulation for the protection of the commercial fish of the state, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of a crewmember fishing license, interim-use permit, or entry permit held by the person for a period of not more than one year;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than one year; and

(3) a suspension of fishing rights under a crewmember fishing license, interim-use permit, or entry permit for a period of not more than one year.

(b) Upon a third conviction, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of a crewmember fishing license, interim-use permit, or entry permit held by the person for a period of not more than three years;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than three years; and

(3) a suspension of fishing rights under a crewmember fishing license, interim-use permit, or entry permit for a period of not more than three years.

ATTACHMENT #4

* Sec. 7. AS 16.05.710 is repealed and reenacted to read:

Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second conviction of a person for a violation of AS 16.05.440 - 16.05.720 or a federal or state law or regulation for the protection of the commercial fish of the state, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of a crewmember fishing license held by the person;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than one year; and

(3) a suspension of an interim-use permit or entry permit for a period of not more than one year.

(b) Upon a third conviction, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of a crewmember fishing license held by the person;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than three years; and

(3) a suspension of an interim-use permit or entry permit for a period of not more than three years.

ATTACHMENT #5

* Sec. 7. AS 16.05.710 is repealed and reenacted to read:

Sec. 16.05.710. LICENSE FORFEITURE. (a) Upon a first or second conviction of a person for a violation of AS 16.05.440 - 16.05.720 or a federal or state law or regulation for the protection of the commercial fish of the state, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of a crewmember fishing license held by the person;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than one year; and

(3) a suspension of an interim-use permit or entry permit for a period of not more than one year.

(b) Upon a third conviction, the court may, in addition to the penalty imposed by law, order

(1) a forfeiture of the crewmember fishing license, interim-use permit, or entry permit held by the person;

(2) a loss of eligibility to hold a crewmember fishing license, interim-use permit, or entry permit for a period of not more than three years; and

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Special Comm. on Fisheries
2/16/84 4pm
2/23/84 8:04am*