

110 HRES SB 39: TRANSFERABILITY - SB 39 WORK DRAFT III

IV

1. No property rights
2. No transfers except in family (as by previous proposals)
3. Only entry emanates from Commission
4. Property right resides in State.

CSSB 39

PROPOSED COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 39: WORK DRAFT

Add new section: Buy-back provision

The commission shall adopt regulations to purchase either the entry permit or the entry permit and fishing gear of willing gear operators in each administrative area until such time as the optimum level of that type of gear in that administrative area is reached.

(a) The value of the property thus transferred shall be determined by the commission. The commission may establish whatever values are necessary to encourage transfer to the State.

(b) Entry permits thus transferred shall be invalidated and cannot be re-issued.

(c) Fishing gear thus transferred shall be sold by the commission at public auction. Purchase of fishing vessels by valid entry permit holders shall be limited to vessels of the same displacement as the entry permit holder is operating at that time. The commission shall allow for a 5% tolerance limit.

Add new section: Compensation

The commission shall adopt regulations to reasonably compensate those persons who have actively participated in the fishery but do not meet the qualifications set forth in Sec. 16.43.160(a).

The commissioner shall deduct any taxes due the State from this compensation.

Add new section: Assessment

CS5B 39

PROPOSED AMENDMENT TO SB 39 - To replace sections 16.43.227 and 16.43.250
Sec. 16.43.250 (ENTRY PERMITS); TRANSFER OF ENTRY PERMITS

Entry permits shall not be transferrable for a two (2) year period after their initial issuance pursuant to section 220 of this chapter. During that period of time the Commission shall evaluate the level of surrender of permits in each of the administrative area created under section 290 of this chapter.

(a) If the level of surrender during either year of the two (2) year period exceeds five (5) per cent of the total number of units of that type of gear in that administrative area, the commission shall issue new permits equalling fifty (50) per cent of the number of permits surrendered in that year on the following basis:

- (1) One half shall be issued upon a point system to be drafted by the commission with reference to the applicant's experience with the type of gear involved and his training in the fishery involved;
- (2) One half shall be issued by lot among all applicants with active applications before the commission having two or more years experience in the relevant fishery.

(b) An applicant receiving a permit pursuant to the above system shall pay the cost incurred by the commission in purchasing the permit reissued to the applicant. The applicant shall at his option pay:

- (1) The total cost of the permit paid at the time of issuance; or
- (2) Eleven (11) per cent of the cost of the permit at the time of issuance, followed by annual payments of at least eleven (11) per cent of the original cost until after a payment period of ten years a total of one hundred and ten (110) per cent of the original cost has been paid. Provided that, the recipient of the permit may at any time discharge remaining indebtedness by paying the total cost

Amendment to Sec. 16.43.250 (con't)

of the permit plus one percent of that cost for each year he has held that permit, with credit for all payments made.

(c) After the two (2) year period following initial issue authorize the the transfer of permits as follows:

(1) If there has been no significant decrease towards maximum desired levels in a given administrative area, no transfer of entry permits shall be allowed:

(2) If the commission determines that there has been a significant decrease towards maximum desired levels, the commission shall continue to accept surrender of entry permits pursuant to section 290 of this chapter and reissue fifty (50) per cent of those surrendered pursuant to subsections (a) and (b) above.

(3) The commission shall authorize the private transfer of permits in an amount not to exceed the number issued by the commission under subsection (c) (2) of this section, in each administrative area. Such transfers shall be authorized in order of application, upon application of both the proposed transferor and transferee.

(d) At any time the maximum desired number of permits for a particular administrative area is reached, licenses within that area shall become transferrable through and by the commission under sections 260, 270 and 280 of this chapter and unless transferred under sections 260, 270 and 280 of this chapter, may not be voluntarily or involuntarily transferred by any means whatsoever, including but not limited to:

(1) sale of any kind, conditional or absolute;

(2) pledge, mortgage, or other encumbrance of any kind;

(3) lease, rental, or other transfer of rights of use or or enjoyment, whether temporary or permanent;

(4) gift of the entire interest or or of any part, whether complete or into any form of co-ownership.

(5) succession at or upon death, whether by will, intestacy or otherwise.

Amendment to Sec. 16. 43.250 (con't)

(6) attachment, distraint, execution or seizure under any other process of a ny kind of any court or other body.

Nothing in this section prevents or otherwise restricts forfeiture as a result of the violation of a provision of this chapter or by violation of fish and game laws or regulations or by violation of any other state law or regulation or for failure to make payments on the permit under subsection (b)(2) of this section.

TO: SPECIAL SENATE FISHERIES COMMITTEE MEMBERS
ALL MEMBERS OF THE LEGISLATURE

FROM: Senator Palmer

DATE: February 16, 1973

SUBJECT: Objectives of a Transferability Clause

1. and To accomplish the original objectives of the bill and in effect put a lid on the present amount of gear in the fishery and gradually,
2. (Equal in Import) by voluntary attrition, reduce the amount of gear to an optimum level established by the commission in consultation with the Board of Fish and Game and the Commissioner of the Department of Fish and Game.

To accomplish the objective of having the transferability clause be legal.
3. To maintain the free enterprise system to the extent possible within the overall objectives of the legislation.
4. To achieve the objectives of the legislation by voluntary action of the fishermen to the extent possible and ensure that a minimum of involuntary action be forced upon the fishermen by the commission.

File

Amendment to SB 39 - Add on to Section 16.43.200 (d)

... Provided that the commission shall not disqualify any person from participation in the fishery who has a history of active participation in the fishery for which application is made solely because he does not at that time possess a unit of gear for the fishery in which the permit is applied for.

File

Sec. 16.43.220 INITIAL ISSUE OF ENTRY PERMITS.

...
...

(b) After Legislative determination of permit transferability pursuant to Sec. 250 of this chapter the commission shall issue entry permits

Sec. 16.43.250 TRANSFER OF ENTRY PERMITS. The commission shall study alternative methods of permit transferability and report its findings and recommendations to the Legislature prior to January 1, 1975.

Alternative transferability provisions considered shall include, but not be limited to: free transferability, transferability through an apprenticeship program, transferability based upon a point system, transferability through a lottery and any combination of the foregoing. The commission shall study the economic, and management impact of proposed transferability alternatives to include investigation of the credit and financing aspects of the fishing industry.

TRANSFERABILITY

In dealing with this subject, we must work within the framework of the following legislative purpose:

"to promote the economic health and stability of commercial fishing in Alaska by regulating and controlling entry into the commercial fisheries in the public interest and without unjust discrimination."

In defining the objectives to be accomplished in transferability, the following constitutional guidelines must be met:

- 1) Legitimate legislative objectives
- 2) Rational means to effect the objectives
- 3) Classification of persons upon a basis reasonably conceivable as relating to the objectives.

There are ~~three~~ basic objectives which the committee should consider in exploring the alternatives.

- 1) Limit the initial entry level into the fishery in a fair and equitable manner. The method of transferability may effect the initial entry level.
- 2) Retain as much freedom of enterprise as possible.
- 3) Accomplish the objectives through voluntary action of the fisherman.

Assuming that unrestricted transferability will result in speculation and higher initial entry levels, a dichotomy exists in the first two objectives. To solve this, the speculative nature of permits could be limited by taxation or by control of transferability, or both. It should be noted that the ability to fish is neither a right nor a privilege but is in a grey area between, and therefore is susceptible to regulation according to Fletcher's legal analysis of salmon gear limitation.

It would seem that consideration should now be given to the collateral objectives.

- 1) Limit the cost to the second generation of fishermen for utilizing a common resource.
- 2) Limit the ability of financial power blocks to economically coerce the unsophisticated fisherman.
- 3) Allow transfer within the family unit.

PROPOSALS

The following proposals attempt to deal with two problems:

1. economic coercion by financial power
blocks
2. qualifications for permits - experience
or money (or both)

The first proposal merely buys time to explain the Act to people who do not have a academic or cultural background to appreciate its impact and perhaps to economically assist areas of impacted poverty.

The second and third proposals deal with qualification standards that could assist crew members and "second" sons in having a fighting chance to get permits. The second proposal leaves broad discretion in the Commission and the third provides more legislative guidance. If, under the second proposal, an unconstitutional regulation were adopted, it could be changed without legislative involvement.

Both the second and third proposals have an "out" in case there is detrimental court action.

The fourth proposal is presented in concept as it essentially eliminates transfers entirely. There is much to be said against excessive windfall gains from a common and "public" resource.

16.43.30 TRANSFER OF ENTRY PERMITS

(b) Except for emergency transfers pursuant to Sec. _____ of this chapter there shall be a two-year moratorium on all entry permit transfers pursuant to this section.

16.43.30 TRANSFER OF ENTRY PERMITS

(a) The holder of an entry permit may apply to the Commission to transfer his permit to another person. The Commission may adopt regulations setting forth fair and reasonable qualifications for permit transferees pursuant to this section. [can add standards and options -- i.e., commercial sale, lottery, other controls]

(b) If after due consideration, including public hearings in each administrative area, the Commission determines that a system of qualifications pursuant to (a) of this section is not feasible, the Commission shall approve permit transfer applications if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter.

(c) Except for emergency transfers pursuant to Sec. _____ of this chapter, there shall be a two-year moratorium on all entry permit transfers pursuant to this section. [can add reasons]

16.43.30 TRANSFER OF ENTRY PERMITS

(a) The holder of an entry permit may apply to the Commission to transfer his permit to another person. The Commission may adopt regulations setting fourth the qualifications for permit transferees. Any regulations pursuant to this section shall define reasonable priority classifications of similarly situated potential applicants based upon a fair and reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery,
- (2) Extent of past and present participation in similar fisheries,
- (3) Training pertaining to commercial fishing.

The Commission may restrict permit transfers to persons in the highest priority classification pursuant to this section.

(b) If after due consideration, including public hearings in each administrative area, the Commission determines that a system of qualification pursuant to (a) of this section is not feasible, the Commission shall approve permit transfer applications if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposed of this chapter.

(c) Except for emergency transfers pursuant to Sec. _____ of this chapter there shall be a two-year moratorium on all entry permit transfers pursuant to this section. [can add reason]

IV

1. No property rights
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CS 5B 39

PROPOSED COMMITTEE SUBSTITUTE

WORK DRAFT II

1. Add to 16.43.030 TERM OF OFFICE: VACANCY

Initial appointments shall be as follows: One member for two years, one member for three years, and one member for four years.

2. Alternatives: Add to 16.43.030 TERM OF OFFICE: VACANCY

(a) Board of Fish and Game, Removal of board members (16.04.280). The Governor may remove a board member for inefficiency, neglect of duty, or misconduct in office by delivering to him a written copy of the charges and giving him an opportunity to be heard in person or through counsel at a public hearing before the Governor or his designee upon at least 10 day's notice by registered mail. The member has the right to confrontation by and cross-examination of all witnesses against him. Upon removal, the Governor or his designee shall file a complete statement of all charges made against the member and the findings in the proper state office (SLA 1959).

(b) Alaska Public Utilities Commission, Removal of commissioners (42.05.035). The Governor may remove a

commissioner from office by and with the consent of a majority of the legislature (SLA 1970).

(c) Alaska Transportation Commission, Term of office; vacancy (42.07.021 (d)). The Governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 day's notice. If a commissioner is removed for cause, the Governor shall file with the Secretary of State a complete statement of all charges made against the commissioner and his findings based on the charges, together with a complete record of the proceedings (SLA 1969, am SLA 1970).

3. Add to 16.43.050 QUALIFICATIONS.

The commission shall consist of three members, with a board range of professional experience, none of whom have a vested or commercial interest in the harvest, production, or management of the commercial fishery resources.

4. Add to 16.43.060 LEGAL COUNSEL.

However, the commission may retain additional legal counsel as appropriate.

5. Add to 16.43.120 (a) GENERAL POWERS.

(9) designate, in view of the purposes and findings of fact in Sec. 010 of this chapter, specific fishery resources subject to the provisions of this chapter.

6. Add to 16.43.160 STANDARDS.

On the number of units of gear necessary to harvest peak runs in an orderly, efficient manner based on sound management techniques.

7. Add to 16.43.200 ENTRY PERMIT QUALIFICATIONS.

(a) The regulations shall define six priority classifications, with reasonable subclassifications, of similarly situated potential applicants based upon a reasonable balance of the two following standards of preference:

(1) Degree of economic dependence upon the fishery including but not limited to, considerations of: percentage of income derived from the fishery, alternative occupations held and additional sources of income available, (excluding public assistance income) character of alternative occupations, and investment in vessels, gear, equipment and property actively and primarily used in the fishery.

(2) Extent of past participation in the fishery to determine the length, degree, and character of participation in the fishery including subsistence activities.

(b) The commission shall classify applicants on a gear to gear basis within each administrative area and rank each applicant within one of the following six priority classifications based upon the character of the applicant's involvement in the fishery:

- (1) Career Fishermen - The fishery constitutes the primary subsistence and/or income source.
- (2) Career Fishermen - The fishery constitutes a necessary and substantial subsistence and/or income source.
- (3) Alternative Occupation - The fishery provides a substantial income supplement.
- (4) Alternative Occupation - The fishery provides a variable minor income.
- (5) Hobby or Sport-Commercial - The fishery provides an incidental income.
- (6) Mere License Holder - Essentially no income from or participation in the fishery.

8. Add to 16.43.220 ISSUANCE OF ENTRY PERMITS

(b) The commission shall issue entry permits, for each administrative area and each type of gear, first to all qualified applicants in the highest priority classification, and then to all qualified applicants in each descending priority classification, until the number of entry permits issued equals the maximum number of units of gear established

pursuant to Secs. 160 - 170 of this chapter for each administrative area and each type of gear. Except that no applicant falling within the first two priority classifications set out in Sec. 200 (b) shall be denied a permit and no applicant falling within the third priority classification shall be denied a permit unless there is a prior determination by the commission, the Commissioner of Fish and Game, and the Board of Fish and Game that biological and economic factors justify denial of permits in these classifications. No permit shall be issued an applicant unless he has the present ability and intent to participate actively in the fishery.

9. Add to 16.43.230 TERMS AND CONDITIONS OF ENTRY PERMIT.

(c) Two years from the date of last renewal shall result in a forfeiture of the entry permit except as waived by the commission for good cause shown and consistent with the purposes of this chapter.

10. Add to 16.43.250 - 260 ALTERNATIVE I.

16.43.250 TRANSFER OF ENTRY PERMITS.

(a) Entry permits are non-transferable except that the holder of an entry permit may apply to the commission to transfer his permit to a spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve

the transfer application and reissue the entry permit to the transferee.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

16.43.260 NEW ENTRY.

Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to Sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to Sec. 230 (c) of this chapter, the commission shall adopt regulations consistent with the purposes of this chapter, providing for the issuance of such permits.

16.43.250 - 260 ALTERNATIVE II.

16.43.250 TRANSFER OF ENTRY PERMITS.

- (a) Entry permits are non-transferable except that:
- (1) The holder of an entry permit may apply to the

commission to transfer his permit to his spouse or children if the proposed transferee falls within the highest priority classification pursuant to Sec. 260 (a) of this chapter and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and re-issuance of entry permit within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer rations between types of gear which will maintain a stable level of fishing within that administrative area.

16.43.260 NEW ENTRY.

(a) Following the issuance of entry permits pursuant to Sec. 220 the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any new entry. The regulations shall define reasonable priority classifications of similarly situated potential applicants based upon a reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery.
- (2) Training pertaining to commercial fishing.
- (3) Present ability and intent to participate actively in the fishery.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to Sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to Sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

16.43.250 - 260 ALTERNATIVE III

16.43.250 TRANSFER OF ENTRY PERMITS.

- (a) Entry permits are non-transferable except that
- (1) The holder of an entry permit may apply to the commission to transfer his permit to spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee.
 - (2) The holder of an entry permit may apply to the commission for the sale of his permit which may include

any reasonably associated vessel, skiff, gear, equipment, and property or lease rights pursuant to Sec. 260 of this chapter.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and re-issuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

16.43.260 APPLICANT POOL.

(a) Following the issuance of entry permits pursuant to Sec. 220 of this chapter the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any new entry. The regulations shall define reasonable priority classifications of similarly situated potential applicants based upon a reasonable balance of all the following standards of preference:

(1) Extent of past and present participation in the fishery.

(2) Training pertaining to commercial fishing.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to Sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to Sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

(c) Whenever an additional entry permit becomes available through an application for transfer and sale pursuant to Sec. 250 (a) (2) the commission shall sell, pursuant to regulations adopted by the commission, the permit and any reasonably associated vessel, skiff, gear, equipment, and lease or property right to the highest bidder upon sealed bid among the highest priority classification of applicants. Except that no such sale shall be consummated unless the highest bid price exceeds the fair market value of the property offered for sale.

(d) The commission shall prescribe an appropriate fee for sales pursuant to (c) of this section. This fee shall be subtracted from sale proceeds which shall then be dispensed to the transferor.

11. Add to 16.43.280 PENALTIES.

(b) a person who makes a false statement as to a material fact in the application for an entry permit, or a person who assists another by making a false statement to a material fact

relating to the other persons entry permit is guilty of a misdemeanor, and upon conviction the entry permit shall be permanently forfeited to the commission.

12. Add Sec. 2 AS 16.05.250 (14) is amended to read:

(14) Establishment of the times and dates during which the issuance of fish and game licenses, permits, and registrations and the transfer of permits and registrations between registration areas, game management units or sub-units, is allowed. However, this paragraph does not apply to permits issued or transferred under Ch. 43 of this title.

SB 83 1977: materials available ^{11/7/83} in LRL:

1. H. Resources 1977 ^{a)} tape #12, side 1
b) minutes 2/25/77
c) tape log 2/25/77
2. H. Judiciary tape ^{#33} 4/20/77, side 2
tape log for 4/20/77
3. S. Resources tape #1C, side 2.
tape #2, side 1

no committee bill files in LRL

this info. was compiled for John Aken.

J. Henry



JUNEAU ALASKA

House

HOUSE RESOURCES COMMITTEE

25 February 1977

MINUTES

The meeting was called to order at 1:25 p.m. Room 118 of the Capitol Building by Representative Alvin Osterb Chairman.

Members Present

Osterback, Chairman
Snider, Vice Chairman
Urion
Eliason
Akers
Miller

Absent

Smith
Malone
Bennet

HB 184 An act relating to the sale, purchase, or barter of sheefish.

Testimony: Rep. Leo Schaeffer, sponsor testified in favor of the bill, saying he wished to open sheefish up to Commercial Fishing. It is presently under the Sport Fishing Category.

Representatives Eliason and Schaeffer agreed that the word "subsistence" in HB 184 may be improperly used.

HB 184 was temporarily dropped so someone from Fish and Game could come to testify.

SB 83 An act relating to the transfer of commercial fisheries entry and interim permits.

Testimony: Roy Rickey, from the Limited Entry Commission testified that this bill was largely a housekeeping measure for regulations concerning the transfer of permits.

Rep. Eliason passed out copies of a Committee Substitute that he has been working on for SB 83.

Sections 2-6 would become sections 3-7 respectively.

Insert new paragraph on line 16 reading:

Sec. 2. AS 16.43.150 is amended by adding a new subsection to read:

(h) Upon the death of an entry permit holder, the permit belongs to the surviving spouse by right of survivorship unless a contrary intent is manifested. When no spouse survives, the rights of the decedent pass as part of his estate.

		TRAVEL ONLY \$69,000
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MINUTES 25 February 1977

Roy Rickey said that the Limited Entry Commission has no problem with this change, in fact it may make it easier for the Commissioner to answer transfer requests.

MOTION

Rep. Eliason moved and asked unanimous consent to adopt his admendment, incorporated in SB 83 as a House Committee Substitute for SB 83.

The vote taken by the Chairman was a unanimous "aye" vote.

Absent - Smith, Malone, Bennet.

The motion carried.

MOTION

Rep. Urion moved to pass the House Committee Substitute for SB 83 out of his committee as amended with a "do pass" recommendation.

A vote was taken:

All those in favor - unanimous "aye".

Absent - Smith, Malone, and Bennett.

The motion carried.

HB 250 An act relating to Fish and Game Advisory Committees.

Testimony: James W. Brooks, Commissioner has calculated the cost of HB 250 to be \$255,000 only, plus the cost of processing traveling costs. He said he favors the concept of HB 250, but would oppose it if it imposes an additional burden on the state's general fund.

Rep. Severson had calculated the cost at \$161,225.

The committee decided to cover just travel, not per diem, and change the number of trips per year from 5 to 4.

MOTION

Rep. Snider moved to make the following amendment and incorporate as a Committee Substitute for HB 250

Line 10 delete "and per diem as provided by law for boards and commissions"

Line 11 delete "each day going to and from and for each day in actual"

Line 14 delete "and per diem are" and insert "is" in its place. Replace "five" with "four"

TRAVEL ONLY \$69,000

IT TO 4 MTGS. PER YEAR

DATE	TAPE #12 LOCATION	BILL	WITNESSES, ACTION, ETC.
	410 2:00pm	HB 187 HB 250	James W. Brooks, Commissioner dept. of Fish & Game. has calculated cost associated with this bill - \$255,000 / YEAR cost does not include cost of processing travel documents \$2,315 ←
			favors HB 250 concept, but would oppose it if it imposes a more burden on State's general fund. It's a money problem
	510		BROOKS - VARIATION BETWEEN HIS FISCAL NOTE & SEVERSEN'S FISCAL NOTE. ELIASON - maybe only 1 trip. MILLER - SEVERSON - maybe just fund travel. Miller wants one of these proposals - SEVERSEN OR ELIASON.
			VARIOUS SUGGESTIONS: TRAVEL ONLY \$69,000
			CHANGE IT TO 4 MTGS. PER YEAR (BROOKS SAID THIS IS ENOUGH)

MALONE

DATE	TAPE #12 LOCATION	BILL	WITNESSES, ACTION, ETC.
	3 - 1:23pm	HB 184	REP. LEO SCHAEFFER shufish is now in sport fisheries. Wants to put it in commercial fisheries. ELIASON-SCHAEFFER "subsistence" wrong terminology in bill.
	139	SB 83	ROY RICKEY LIMITED ENTRY house keeping legislation stops people from leasing permits.
	305		ELIASON has been working on a committee substitute relating to if a permit holder dies, the permit can be transferred without going through probate. Roy Rickey said there's no problem with this change, in fact it may make it easier for the Commission to answer all transfer requests. Eliason moved and asked unanimous consent to adopt CSB 83. unanimous aye. Union moves to ...

whitford

1. ADD TO 16.43.030 TERM OF OFFICE; VACANCY
INITIAL APPOINTMENTS SHALL BE AS FOLLOWS: ONE MEMBER FOR TWO YEARS, ONE MEMBER FOR THREE YEARS, AND ONE MEMBER FOR FOUR YEARS.

Alternatives

2. ~~2.01.010~~: ADD TO 16.43.030 TERM OF OFFICE; VACANCY
 - a) BOARD OF FISHS & GAME, REMOVAL OF BOARD MEMBERS (16.05.280)
THE GOVERNOR MAY REMOVE A BOARD MEMBER FOR INEFFICIENCY, neglect of duty, OR MISCONDUCT IN OFFICE BY DELIVERING TO HIM A WRITTEN COPY OF THE CHARGES AND GIVING HIM AN OPPORTUNITY TO BE HEARD IN PERSON OR THROUGH COUNSEL AT A PUBLIC HEARING BEFORE THE GOVERNOR OR HIS DESIGNEE UPON AT LEAST 10 DAY'S NOTICE BY REGISTERED MAIL. THE MEMBER HAS THE RIGHT TO CONFRONTATION BY AND CROSS-EXAMINATION OF ALL WITNESSES AGAINST HIM. UPON REMOVAL, THE GOVERNOR OR HIS DESIGNEE SHALL FILE A COMPLETE STATEMENT OF ALL CHARGES MADE AGAINST THE MEMBER AND THE FINDINGS IN THE PROPER STATE OFFICE (SLA 1959)
 - b) ALASKA PUBLIC UTILITIES COMMISSION, REMOVAL OF COMMISSIONERS (42.05.035)
THE GOVERNOR MAY REMOVE A COMMISSIONER FROM OFFICE BY AND WITH THE CONSENT OF A MAJORITY OF THE LEGISLATURE (SLA 1970)
 - c) ALASKA TRANSPORTATION COMMISSION, TERM OF OFFICE; VACANCY (42.07.021 (d))
THE GOVERNOR MAY REMOVE A COMMISSIONER FROM OFFICE FOR CAUSE INCLUDING BUT NOT LIMITED TO INCOMPETENCE, neglect of duty OR MISCONDUCT IN OFFICE. A COMMISSIONER, TO BE REMOVED FOR CAUSE, SHALL BE GIVEN A COPY OF THE CHARGES AGAINST HIM AND AFFORDED AN OPPORTUNITY TO BE PUBLICLY HEARD IN PERSON OR BY COUNSEL IN HIS OWN DEFENSE UPON NOT LESS THAN 10 DAYS NOTICE. IF A COMMISSIONER IS REMOVED FOR CAUSE, THE GOVERNOR SHALL FILE WITH THE SECRETARY OF STATE A COMPLETE STATEMENT OF ALL CHARGES MADE AGAINST THE COMMISSIONER AND HIS FINDINGS BASED ON THE CHARGES, TOGETHER WITH A COMPLETE RECORD OF THE PROCEEDINGS (SLA 1969, AM SLA 1970)

3. ADD TO 16.43.050. QUALIFICATIONS.

THE COMMISSION SHALL CONSIST OF THREE MEMBERS, WITH A BROAD RANGE OF PROFESSIONAL EXPERIENCE, NONE OF WHOM HAVE A VESTED OR COMMERCIAL INTEREST IN THE HARVEST, PRODUCTION, OR MANAGEMENT OF THE COMMERCIAL FISHERY RESOURCES.

4. ADD TO 16.43.060. LEGAL COUNSEL.

HOWEVER, THE COMMISSION MAY RETAIN ADDITIONAL LEGAL COUNSEL AS APPROPRIATE.

5. ADD TO 16.43.120 (A). GENERAL POWERS.

(9) DESIGNATE, IN VIEW OF THE PURPOSES AND FINDINGS OF FACT IN SEC. 010 OF THIS CHAPTER, SPECIFIC FISHERY RESOURCES SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

6. ADD TO 16.43.160. STANDARDS.

ON THE NUMBER OF UNITS OF GEAR NECESSARY TO HARVEST PEAK RUNS IN AN ORDERLY, EFFICIENT MANNER BASED ON SOUND MANAGEMENT TECHNIQUES. (PERCENTAGE TO SEC. 220(b))

conflict?

~~7. ADD TO 16.43.170 (A) (2). REVISIONS OF MAXIMUM NUMBER OF UNITS OF GEAR SEC. 160 OF THIS CHAPTER.~~

ADOPT Sec. 16.43.200 ENTRY PERMIT QUALIFICATIONS

~~(a) Following the establishment of the maximum number units of gear pursuant to sec. 160 of this chapter, the commission shall adopt regulations for entry permits for each administrative area and for each type of gear. The regulations shall define six priority classifications, with reasonable subclassifications, of similarly situated potential applicants based upon a reasonable balance of the two following standards of preference:~~

(EXCLUDING PUBLIC ASSISTANCE INCOME)

- (1) Degree of economic dependence upon the fishery including, but not limited to, considerations of: percentage of income derived from the fishery, alternative occupations held and additional sources of income available, character of alternative occupations, and investment in vessels, gear, equipment and property, ~~ACTIVELY AND PRIMARILY USED IN THE FISHERY.~~
- (2) Extent of past participation in the fishery to determine the length, degree, and character of participation in the fishery including subsistence activities.

(b) The commission shall classify applicants on a gear to gear basis within ~~each~~ administrative area and rank each applicant within one of the following six priority classifications based upon the character of the applicant's involvement in the fishery:

- (1) Career Fishermen-The fishery constitutes the primary subsistence and/or income source. ~~excluding public assistance income.~~
- (2) Career Fishermen-The fishery constitutes a necessary and substantial subsistence and/or income source.
- (3) Alternative Occupation-The fishery provides a substantial income supplement. VARIABLE
- (4) Alternative Occupation-The fishery provides a [^]minor ~~or~~ income.
- (5) Hobby or Sport-Commercial-The fishery provides an incidental income INCOME FROM OR
- (6) Worm License Holder-Essentially no [^]participation in the fishery.

3.
Add To Sec. 16.43.220 ISSUANCE OF ENTRY PERMITS

...
...
...

EACH

(b) The commission shall issue entry permits, for ~~an~~ administrative area and ~~each~~ type of gear, first to all qualified applicants in the highest priority classification, and then to all qualified applicants in each descending priority classification, until the number of entry permits issued equals the maximum number of units of gear established pursuant to secs. 160-170 of this chapter for ~~the~~ administrative area and ~~each~~ type of gear. Except that no applicant falling within the first two priority classifications set out in sec. 200 (b) shall be denied a permit and no applicant falling within the third priority classification shall be denied a permit unless there is a prior determination by the commission, the Commissioner of Fish and Game, and the Board of Fish and Game that biological and economic factors justify denial of permits in these classifications. No permit shall be issued an applicant unless he has the present ability and intent to participate actively in the fishery.

7.
Adopted Sec. 16.43.230. TERMS AND CONDITIONS OF ENTRY PERMIT

...
...
...

~~(c) Each entry permit is issued for an initial term of one year, and confers upon the permitted a permanent right of renewal. Failure to renew an entry permit annually does not result in the loss of the right to renew the permit upon payment of all accrued annual fees, except that failure to renew an entry permit for a period two years from the date of last renewal shall result in a forfeiture of the entry permit except as waived by the commission ~~on an area basis, or in the case of an individual~~ for good cause shown AND CONSISTANT WITH THE PURPOSES OF THIS CHAPTER.~~

~~(d) The commission shall establish terms and conditions upon which entry permits may survive the death of the permittee.~~

~~(e) An entry permit may not be pledged or hypothecated and is not subject to attachment, distraint, or sale on execution of judgment.~~

Kathy: omit UNDERLINING phrase



D. Add to Sec. 16.43.250-260 ALTERNATIVE I.

Sec. 16.43.250 TRANSFER OF ENTRY PERMITS.

(a) Entry permits are nontransferable except that the holder of an entry permit may apply to the commission to transfer his permit to a spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and reissue the entry permit to the transferee.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall ~~Reflect~~ the relative differences in average efficiency of different ~~types of~~ gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

Sec. 16.43.260. NEW ENTRY. Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to sec. 230 (c) of this chapter, the commission shall adopt regulations consistent with the purposes of this chapter, providing for the issuance of such permits.

Sec. 16.43.250-260. ALTERNATIVE II

Sec. 16.43.250. TRANSFER OF ENTRY PERMITS.

(a) Entry permits are nontransferable except that :

- (1) The holder of an entry permit may apply to the commission to transfer his permit to his spouse or children if the proposed transferee falls within the highest priority classification pursuant to sec. 200 (a) of this chapter and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee. ~~[The holder of an entry permit may apply to the commission for the sale of his permit which may include any reasonably associated vessel, gear, equipment, and property or lease right pursuant to sec. 200 of this chapter.]~~

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

Sec. 16.43.260. NEW ENTRY.

(a) Following the issuance of entry permits pursuant to sec. 220 the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any new entry. The regulations shall define reasonable priority classifications of similarly situated potential applicants based upon a reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery.
- (2) Training pertaining to commercial fishing.
- (3) Present ability and intent to participate actively in the fishery.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

Sec. 16.43.250-260 ALTERNATIVE III

Sec. 16.43.250. TRANSFER OF ENTRY PERMITS.

(a) Entry permits are non-transferable except that

- (1) The holder of an entry permit may apply to the commission to transfer his permit to spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee.
- (2) The holder of an entry permit may apply to the commission for the sale of his permit which may include any reasonably associated vessel, skiff, gear, equipment, and property or lease rights pursuant to sec. 260 of this chapter.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

Sec. 16.43.260 APPLICANT POOL.

(a) Following the issuance of entry permits pursuant to sec. 220 of this chapter the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any new entry. The regulations shall define reasonable priority classifications of similarly situated potential applicants based upon a reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery.
- (2) Training pertaining to commercial fishing.
- ~~(3) Present ability and intent to participate actively in the fishery.~~

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

(c) Whenever an additional entry permit becomes available through an application for transfer and sale pursuant to sec. 250 (a) (2) the commission shall sell, pursuant to regulations adopted by the commission, the permit and any reasonably associated vessel, skiff, gear, equipment

and lease or property right to the highest bidder upon sealed bid among the highest priority classification of applicants. Except that no such sale shall be consummated unless the highest bid price exceeds the fair market value of the property offered for sale.

(d) The commission shall prescribe an appropriate fee for sales pursuant to (c) of this section. This fee shall be subtracted from sale proceeds which shall then be dispensed to the transferor.

11. ~~11.8~~ ADD TO 16.43.280. PENALTIES.

(b) A PERSON WHO MAKES A FALSE STATEMENT AS TO A MATERIAL FACT IN THE APPLICATION FOR AN ENTRY PERMIT, OR A PERSON WHO ASSISTS ANOTHER BY MAKING A FALSE STATEMENT TO A MATERIAL FACT RELATING TO THE OTHER PERSONS ENTRY PERMIT IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THE ENTRY PERMIT SHALL BE PERMANENTLY FORFEITED TO THE COMMISSION. (F&G violations)

(c) Includes false statement on Emergency Transfers

12.

~~13.~~

ADD * SEC. 2. AS 16.05.250(14) IS AMENDED TO READ:

(14) ESTABLISHMENT OF THE TIMES AND DATES DURING WHICH THE ISSUANCE OF FISH AND GAME LICENSES, PERMITS AND REGISTRATIONS AND THE TRANSFER OF PERMITS AND REGISTRATIONS BETWEEN

REGISTRATION AREAS, GAME MANAGEMENT UNITS OR SUB-UNITS, IS ALLOWED. HOWEVER, THIS PARAGRAPH DOES NOT APPLY TO PERMITS ISSUED OR TRANSFERRED UNDER CH. 43 OF THIS TITLE.

STATE
OF ALASKA

MEMORANDUM

TO: Senator Palmer

DATE: 2/6

FROM: David Jackman

SUBJECT: S. B. 39

Here are some suggested alternatives
based on last night's discussion.

Add 6. - Suggested Alternative

(1) The number of units of gear that will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear.

(2) The number of units of gear necessary to fully harvest the allowable commercial take of the fishery resource during all years in an orderly, efficient manner based upon sound management techniques.

Add 7. - Suggested Alternative

Sec. 16.43.200. ENTRY PERMIT QUALIFICATIONS. (a)

Following the establishment of the maximum number of units of gear pursuant to sec. 160 of this chapter, the commission shall adopt regulations setting forth the qualifications for entry permits for each administrative area, and for each type of gear. The regulations shall establish specific qualifications for grouping similarly situated potential applicants into the following priority classifications:

(1) Career fishermen (single fishery participation) - Consistent participation in this fishery provides a primary or substantial income source.

(2) Career fishermen (multiple fishery participation) - Consistent participation in this fishery, together with participation in other fisheries, constitutes the primary income source.

(3) Alternative occupation fishermen - Participation in this fishery provides a substantial income supplement.

(4) Avocational fishermen - Irregular participation in the fishery provides a variable minor income source.

(5) Inactive fishermen - Licensed fishermen with no record of active participation in the fishery, or once active fishermen who have ceased participating in the fishery.

(b) The qualifications for grouping similarly situated potential applicants shall be based upon a reasonable balance of the two following standards of preference:

(1) Degree of economic dependence upon the fishery including, but not limited to, percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, and investment in vessels and gear.

(2) Extent of past participation in the fishery including, but not limited to, the number of years participation in the fishery, and the consistency and character of participation during each year.

(c) The commission may adopt regulations establishing subclassifications of the priority classifications in (a) of this section when necessary and appropriate for a certain administrative area and type of gear, and consistent with the purposes of this chapter.

Add 8. - Suggested Alternative

Sec. 16.43.225. RIGHT TO COMPENSATION. (a) If an entry permit is not issued to an applicant who qualifies under priority classifications (1)(2) or (3) as established in sec. 200 of this chapter, full and reasonable compensation must be made based upon the economic value of an entry permit for the area and type of gear for which his application was denied, and including compensation for direct economic loss resulting from a drop in the market value of the applicant's vessel and gear which is attributable to regulation under this chapter.

(b) Until full compensation is made by the commissioner, any applicant eligible for compensation under (a) of this section shall be permitted to continue fishing under an interim entry permit.

Note: This just suggests a possible simplified approach to buy-back and compensation. It would require amending sec. 120 and sec. 190, and adding another section creating a compensation fund.

Basically it would allow everyone in priority classification (1), (2), or (3) to continue fishing on an interim entry permit until the legislature appropriated enough money to compensate them.

Add 10 - Suggested Alternative on Transfer of Permits

Although, I have not had time to draft language, I would suggest leaving permits transferable, but perhaps establish a five-year moratorium on any transfer or sale at the outset.

That would mean that except when necessary due to death or disability, the commission would process no transfers of permits (sales) for five years. This could be partially justified on administrative grounds because the commission will be too busy with its initial work during the first few years to administer transfers.

It would meet many of the objections raised last night by giving fishermen a few years to improve their economic situation and get used to the limited entry program before they would have the opportunity of selling out.

CSS B 39

Price [unclear]

[unclear]

[unclear]

[unclear]

11/1/1901

SENATE ROLL CALL

19

ject

ective date

	Yea	Nay	Absent
ROVICH		✓	
FT			
H		✓	
IRIS		✓	
ISLEY			
IMAN			
TTULA			
IS		✓	
JAND		✓	
LER, K.			
LER, T.			
MER			
JAND			
ER			
I			
TTIC			
CKETT			
OMAS			
JNG			
EGLER		✓	

YEAS _____
 NAYS _____
 ABSENT _____
 EXCUSED _____

e _____ passed

e _____ did not pass

PROPOSALS

The following proposals attempt to deal with two problems:

1. economic coercion by financial power blocks
2. qualifications for permits - experience or money (or both)

The first proposal merely buys time to explain the Act to people who do not have an academic or cultural background to appreciate its impact and perhaps to economically assist areas of impacted poverty.

The second and third proposals deal with qualification standards that could assist crew members and "second" sons in having a fighting chance to get permits. The second proposal leaves broad discretion in the Commission and the third provides more legislative guidance. If, under the second proposal, an unconstitutional regulation were adopted, it could be changed without legislative involvement.

Both the second and third proposals have an "out" in case there is detrimental court action.

The fourth proposal is presented in concept as it essentially eliminates transfers entirely. There is much to be said against excessive windfall gain from a common and "public" resource.

16.43.30 TRANSFER OF ENTRY PERMITS

(b) Except for emergency transfers pursuant to Sec. _____ of this chapter there shall be a two-year moratorium on all entry permit transfers pursuant to this section.

II

16.43.30 TRANSFER OF ENTRY PERMITS

(a) The holder of an entry permit may apply to the Commission to transfer his permit to another person. The Commission may adopt regulations setting forth fair and reasonable qualifications for permit transferees pursuant to this section. [can add standards and options -- i.e., commercial sale, lottery, other controls]

(b) If after due consideration, including public hearings in each administrative area, the Commission determines that a system of qualifications pursuant to (a) of this section is not feasible, the Commission shall approve permit transfer applications if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter.

(c) Except for emergency transfers pursuant to Sec. _____ of this chapter, there shall be a two-year moratorium on all entry permit transfers pursuant to this section. [can add reasons]

16.43.30 TRANSFER OF ENTRY PERMITS

(a) The holder of an entry permit may apply to the Commission to transfer his permit to another person. The Commission may adopt regulations setting fourth the qualifications for permit transferees. Any regulations pursuant to this section shall define reasonable priority classifications of similarly situated potential applicants based upon a fair and reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery,
- (2) Extent of past and present participation in similar fisheries,
- (3) Training pertaining to commercial fishing.

The Commission may restrict permit transfers to persons in the highest priority classification pursuant to this section.

(b) If after due consideration, including public hearings in each administrative area, the Commission determines that a system of qualification registered to (a) of this section is not feasible, the Commission shall approve permit transfer applications if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter.

(c) Except for emergency transfers pursuant to
Sec. _____ of this chapter there shall be a two-year
moratorium on all entry permit transfers pursuant to this
section. [can add reason]

IV

1. No property rights
2. No transfers except in family (as by previous proposals)
3. Only entry emanates from Commission
4. Property right resides in State.

16.43.250 TRANSFER OF ENTRY PERMITS.

(a) Entry permits are non-transferable except that the holder of an entry permit may apply to the commission to transfer his permit to a spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and reissue the entry permit to the transferee.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

16.43.260 NEW PERMITS.

Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to Sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to Sec. 230 (c) of this chapter, the commission shall adopt regulations consistent with the purposes of this chapter, providing for the issuance of such permits.

16.43.250 - 260 ALTERNATIVE 11.

16.47.250 TRANSFER OF ENTRY PERMITS.

(a) Entry permits are non-transferable except that:

- (1) Extent of past and present participation in the fishery.
- (2) Training pertaining to commercial fishing.
- (3) Present ability and intent to participate actively in the fishery.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to Sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to Sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

16.43.250 - 260 ALTERNATIVE III

16.43.250 TRANSFER OF ENTRY PERMITS.

(a) Entry permits are non-transferable except that:

- (1) The holder of an entry permit may apply to the commission to transfer his permit to spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and his record is free of infractions consistent with the provisions of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee.

- (2) The holder of an entry permit may apply to the commission for the sale of his permit which may include

any reasonably associated vessel, skiff, gear, equipment, and property or lease rights pursuant to Sec. 260 of this chapter.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and re-issuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within the administrative area.

16.43.260 APPLICANT QUALIFICATION.

(a) Following the issuance of entry permits pursuant to Sec. 230 of this chapter the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any permits. The regulations shall define appropriate criteria for determination of similarly situated applicants and shall be based upon a reasonable distance of all the following standards of measurement:

(1) School of fish catch and participation in the fishery.

(2) Productivity potential to commercial fishing.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to Sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to Sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

(c) Whenever an additional entry permit becomes available through an application for transfer and sale pursuant to Sec. 250 (a) (2) the commission shall sell, pursuant to regulations adopted by the commission, the permit and any reasonably associated vessel, skiff, gear, equipment, and lease or property right to the highest bidder upon sealed bid among the highest priority classification of applicants. Except that no such sale shall be consummated unless the highest bid price exceeds the fair market value of the property offered for sale.

(d) The commission shall prescribe an appropriate fee for the sale provided for in (c) of this section. This fee shall be subtracted from sale proceeds which shall then be dispersed to the Lender.

WORK DRAFT

Pg. 11, Sec. 16.43.250 Transfer of Entry Permits

- (a) Except as provided under sec. 260 of this chapter, an entry permit is not transferable from one person to another.
- (b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.
- (c) Failure to actively participate in a fishery for which an entry permit is issued for a period of ___ consecutive years shall result in the forfeiture of an entry permit. Entry permits forfeited under this section shall not be reclaimed until the optimum gear level is reached for that type of gear in the administrative area for which the forfeited permit was issued. Entry permits shall then be issued pursuant to sec. 270 of this chapter.

Fig. 12, Add new section 16.43.270 New Entry

- (a) Whenever additional entry permits become available for issuance, pursuant to secs. 170, 230(c), or 250(b) of this chapter, the commission shall adopt regulations consistent with the purposes of this chapter providing for the issuance of such permits by lottery.

STATE OF ALASKA
 FISH & GAME LICENSING
 DEPT. OF REVENUE
 240 SO. FRANKLIN
 JUNEAU ALASKA 99801

State Comm

COMPARISON OF NUMBER OF COMMERCIAL, VESSEL AND GEAR LICENSES SOLD STATEWIDE
 JANUARY 1 - MARCH 2, 1972 ----- JANUARY 1 - MARCH 2, 1973

RECEIPT CODE	TYPE OF LICENSE	1972	1973	INCREASE OR DECREASE IN NUMBER SOLD	% OF INCREASE OR DECREASE
270	Vessels	642	1142	+ 500	+ 77.88
271	Trawl	185	485	+ 300	+163.93
272	Longline	36	141	+ 105	+291.66
273	Drift Gill	194	354	+ 160	+ 82.47
274	Set Gill	155	79	- 76	- 48.36
275	Beach Seine	2	2	-----	-----
276	Purse Seine	60	95	+ 35	+ 58.33
277	Beam Trawl	14	30	+ 16	+114.29
278	Otter Trawl	53	51	- 2	- 3.77
279	Shellfish Pots	185	288	+ 103	+ 55.68
280	Clam Digger	12	20	+ 8	+ 66.67
281	Res. Comfish	877	1727	+ 850	+ 96.92
282	Nonres. Comfish	165	299	+ 136	+ 83.44
283	Scallop Dredge	2	2	-----	-----
TOTALS		2576	4711	+2135	+ 82.88

REMARKS ON LIMITED ENTRY delivered by Senator Bob Palmer

In many areas of the state the excessive amount of commercial fishing gear currently makes the ~~most~~ effective biological management of Alaska's fisheries for maximum sustained yield ^{almost} impossible. Since the number of fish that can be safely ^{harvested} ~~taken commercially~~ is limited, the fishery cannot provide a livelihood for an unlimited number of people.

The Cook Inlet drift net fishery is only one of several examples of the management difficulties created by excess gear. Because of the volume of gear, only two 12-hour periods of fishing a week were permitted last year. ^{and scheduled this year.} Since salmon returning to a particular spawning area travel together, and the concentration of gear is so great, the danger of wiping out a particular run in its entirety is always present. A difference of only a few

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hours in the opening and closing times for a fishing period could destroy the results of years of good management and rehabilitation. Extremely large concentrations of gear are also posing very serious management problems in the Bristol Bay and Prince William Sound salmon fisheries and some of the State's shellfish fisheries. In other fisheries the problem is less severe; and some fisheries today face no problem, only the threat of a growing amount of gear.

The amount of gear fished in nearly all of the State s fisheries has been increasing yearly, and that trend shows no signs of slowing or reversing. The figures on the attached sheet show an increase of 82.88 percent in the total number of commercial, vessel and gear licenses sold statewide during January and February of this year over the same period last year. While the

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prospect of limited entry has undoubtedly exaggerated the growth rate by spurring speculators to buy licenses, the trend is still clear -- and so is the danger that it indicates for all of Alaska's fisheries, either now or in the future.

In addition to weakening effective fisheries management, this continuing growth in the number of units of gear makes fisheries rehabilitation programs futile in the long run. What good is it to increase the number of fish by fifty percent if, at the same time, the number of fishermen increase by seventy-five percent?

In addition to the problems of lessened management effectiveness and diminishing economic return to individual fishermen, the growth in gear poses another danger to Alaska's fisheries.

Page Four

Without sufficient money to diversify their fishing activities and improve their fishing methods, time is going to pass by the growing crowd of Alaskan fishermen. Their mere numbers and the resultant low income will force them into using obsolete, inefficient methods, even in new fisheries. Alaskan fishermen and Alaskan fish products will find themselves in a bottom position in competitive markets, futilely and ironically seeking more money to make a living from a catch that cost them more to get than fishermen elsewhere.

Limited entry will put a lid on the growth of gear in the State's fisheries, and where there is already too much gear, it will reduce the amount to a workable level. It will lead to better fisheries management and enhancement, improved economic

Page Five

returns, more effective development of all of the State's commercial fisheries, and a better competitive market position.

Merely putting a limit on the number of participants at any one time does not amount to giving individuals property rights to the fishery itself. The fisheries of this state will always remain the common property of the people, but their use must be regulated through limited entry if Alaska's fisheries are to be economically and biologically productive and continue to contribute to the overall well-being of this State

SUMMARY OF COMMENTS ON TRANSFERABILITY

Free Transferability thru the commission

1. Meets the committee objective of retaining as much freedom of enterprise as possible.
2. Will increase the speculative nature of permits and the costs of compensation and/or a buy-back program.
3. By granting a transferable privilege, the State will lose the ability to control who utilizes a common resource.
4. Will encourage a greater adherence to conservation considerations on the part of those utilizing the resource.
5. If the State has a vested interest in keeping as many permits as possible in resident hands, free transferability may result in the flow of permits to non-residents with a more rapid rate among low income groups.
6. Vests the ability to utilize a common resource in private hands placing a monetary qualification on those who wish entry to the fishery.
7. Passes the cost for the privilege to use a common resource on to the second generation of fishermen.

Quarantine period prior to free transferability

1. May allow for the unsophisticated and those most dependent on the fishery an opportunity to improve economic condition. Their ability to withstand economic pressures could be substantially improved by a State loan program and/or the involvement of the Native Regional Corporations.

Free Transferability thru the commission with a substantial tax on entry permits sales.

- A. 75% tax on the fair market value of an entry permit when sold to the commission. The commission would purchase permits in an area until the optimum gear levels were reached.
- B. 90% tax on the sale of an entry permit to another individual.
1. Would decrease the speculative nature of the permits and the cost of compensation and/or a buy-back program.
2. Does not pass the cost for utilizing a common resource on to the second generation of fishermen. The major portion of appreciation in value reverts to the State in the form of taxes.

3. Would encourage "under-the-table" schemes which would substantially increase the administrative policing required.
4. Offers an incentive to sell to the commission in over-gearred areas.
5. Could allow for transfer within the family unit at minimal costs.

Restricted Transferability thru the commission to an applicant pool

1. Would allow those who have been dependent on the fishery as non-gear operators an improved chance of entry.
2. Would allow for State control of individuals utilizing a common resource.
3. Depending on qualifications, could create a closed class and if not, may favor non-residents.
4. Depending on the right-privilege dichotomy, could be considered discriminatory to those with no experience or training, but who wish to utilize a common resource.
5. Would increase an individual's ability to obtain financing (as opposed to lottery).

Restricted Transferability thru the commission by lottery

1. Would be inequitable to all.
2. Would make financial planning very difficult for those in lottery.
3. Would not allow any advantage to those non-gear operators dependent on the fishery.

Restricted Transferability thru the commission only to family members, but restricted permits issued by lottery or applicant pool.

1. Would be inequitable to those who wish to utilize a common resource and would not allow them to do so.

Justification of David Jackman, Office of the Attorney General,
for COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 39, a bill for
limited entry into the commercial fisheries of Alaska

As stated this proposed committee substitute has been the result of much work drawn primarily from the committee substitute that the Professor (Fletcher) put together and the inputs of the people attending those meetings. I think the structure of the bill can be most easily understood if you think of it in four parts, maybe there are five.

First article dealing with the creation of the commission. The second article dealing with the basic entry permit. Entry permits, what the terms and conditions of the entry permit are, how they can be transferred, so forth. The third article dealing with the initial issue of permits, starting with the present situation, how do we decide how we are going to go about putting a lid on things and getting the entry permits out initially to the people that have been fishing. The fourth article is really phase two of the program the reduction of the number of entry permits down to the optimum levels. It is working from where we are now in a lot of distressed fisherys down to a reasonable level of gear. The fifth article very frankly simply deals with general provisions, such as penalties, regulations, definitions.

I know you are in a time constraints but I will take time and kind of go through the details of how this will work.

The first article, as I say, deals with the commission. The commission would be a three-man commission, they would have a full-time commissioner and a quasi-judicial regulatory agency in the state. One member would be designated as chairman, the commissioners would serve staggered terms and could be removed only for cause shown including incompetency and I think the thinking there was that there would not be an automatic change in the makeup of this commission with a change of administration. The two members of the commission would constitute a quorum. Clearly the organization of the commission contemplates that it would have an adequate supporting staff. There will be the need for a very (fairly) sizeable clerical staff to handle just the mechanics, the bookkeeping of collecting fees, issuing permits, and all of that. The commission would rely on experts as they needed them. The attorney general would be legal counsel and as the chair has noted will doubt be in court defending this.

The powers and duties of the commission are enumerated in Article II. A general rundown will show all the things that will be accomplished in the act. Basically the provisions of the administrative procedures act will govern all regulations adopted by the commission and the adoption of regulations, notices, public hearings, pretty much conform with our apa. The commission would make its own standards in its quasi-judicial role for when it gets around to individuals giving individuals a hearing on their application. It may establish its own regulations and

proceedings for that purpose. It is our experience with other public commissions such as the public utilities commission, the transportation commission, have shown the APA procedures for adjudication to be cumbersome and unnecessary.

Article III which starts with laying out the basic entry permit system. Section 140 states the basic permit requirement that after January 1, 1974, no persons may operate gear in a fishery resource of the state without an entry permit or an interim use permit. The permit is not required of a crewman or others who assist in this fishing. It would just have to be issued, just applies, on a one to one correspondence with the units of gear. The bill goes on to explain that there are only three circumstances in which a person can hold more than one permit. Illustrate. Fishing in more than one administrative area we have established fisheries, those who actually have fished or want to fish, say Southeastern and Prince William Sound. The third situation would be harvesting a particular species for which separate interim gear was issued. Illustrated by example of Kodiak where one type of gear, shellfish, could be used for tanner crab, king crab, dunqeness crab, and the level of gear for each of those different fisheries might be very different so you would have to have different permits for king crab than for tanner crab.

Now Section 150 starting line 6 spells out the terms and conditions of entry permits. Basically it states that a permit to operate

a unit of gear within a specified administrative area must be in the possession of the holder fishing for a term of one year but is renewable annually. This is to make clear that as long as the person remains in good standing and pays the assessments, he has a right to renew. Important term and condition is that an entry permit constitutes a gear license which may be modified or revoked by the Legislature. This is to make it clear that the entry permits do not constitute property rights in the fishery. Or something that is subject to compensation. In a sense it is stating the obvious. It makes clear to people that in terms of the entire system the legislature can come back and make whatever future adjustments or admendments/are necessary. (modifications) Also stated in the entry permit shall not be pledged more than the holder is encumbered (?) or subject to right of repossession. The fees section underwent substantial discussion and provision because several of the committee members noted the problem of charging one set fee for all the different types of gear in the state. Illustrated. To correct those possible inequities the fee sections reads that the annual fee shall be no less than \$10 and no more than \$100 to reflect the differing economic rates/for of return different fisheries.

The bill permits those following the low social security administration/^{poverty}guidelines to in no case be subject to more than a five dollar maximum fee. Transfer of entry permits can be through the commission only. Permits can be transferred by making appli-

cation to the commission and only upon six months notice of intent to transfer. This was thought to be a protection, going through the commission and in full view of the commission. Basically the permits are freely transferable with one exception -- well two important exceptions -- the transferee, the person to whom the permit is going, must be a fisherman, one actively participating in the fishery. One class of applicants will receive permits subject to a temporary restriction on transfer. They can only transfer back to the commission. They cannot transfer to another commission. They will get market value just like everyone else but they can only transfer to the commission.

Article IV, the initial issuance of entry permits first establishes administrative areas which are compatible with the areas established by the Board of Fish and Game. Then introduced the interim use permit which does just what it says -- it is a permit which the commission will issue adopting the regulations, accepting the applications that it needs to make to issue the final entry permits. Interim use permit in some of the fisheries probably will be only for six months to a year. In some of the other fisheries if they need them longer than that, this will be the mechanism by which the commission can keep track of a fishery and put a lid on it.

There is one special restriction on the interim use permits. They can be issued to anyone who is actively ready to participate in the fishery. However, on the bottom of page nine Bristol Bay, Cook

Inlet, and Prince William Sound drift net fisheries are severely impaired, and even on an interim basis permits can only go to those who have at some time in the past fished in those fisheries. Even interim permits cannot be issued to fishermen that come in there for the first time this next year. There will be a one year restriction on that so that the Legislature can keep a tight control on that.

Terms and conditions of interim use permits. They are non-transferable. The commission can adopt regulations for the hardship transfer of interim use permits because of sickness or other unavoidable consequences that would keep a man out for a season. The next important provision is the designation of distressed fisheries. This is substantially from anything in the House Bill. Designation of distressed fisheries is those fisheries which are at or above the optimum level basically. Most of the salmon fisheries fall in that category and some of the shellfish. The only fisheries which would be excluded are fisheries which in the judgement of the commission can be allowed to grow which are still below the optimum level. For the distressed fisheries, the termination of the maximum number of entry permits. Basically for the distressed fisheries the maximum number of permits for additional issue will be the highest number of units of gear during any one of the four years immediately preceding January 1, 1973. For the other fisheries when the commission finds that that fishery has reached levels which require limitation on down the line, the commission shall establish the maximum level of gear for that fishery.

In terms of standards for initial issuance of entry permits, these are set forth as hardship standards to write (right?) the applicant's degree of hardship they would experience by exclusion from the fishery.

Regulations would define priority classifications based on two standards: the degree of economic dependence upon the fishery and extent of past participation in the fishery. At the same point in time that the commission is proposing those regulations which would set forth the qualifications, they will do this fishery by fishery, dealing with each area and each type of gear separately, the commission will designate those applicants who would suffer significant economic hardship by being excluded from the fishery. That designation is important because later on those people must receive permits. They are locked in. Another designation which the commission must make is the designation of those priority classification of those applicants who would suffer only minor economic hardship by exclusion from the fishery and it is only people who receive permits in that category who have the restricted transfer permit, in other words they can only transfer the permit to the commission. If they hold on to it or it goes back down to their family, there is no problem with that, then they can keep the permit. But if they want to sell it, they can only sell it to the commission.

The application procedures are pretty straight forward. Only

applicants who have at some time held gear licenses in the area can apply for permits. If the applicant is not satisfied with the commission's decision on his application, he can ask for and receive an administrative adjudication, his own separate hearing at which he can present alternative evidence. Another very important provision included in that section is that all classification, excuse me, all qualifications are determined as of a person's participation in the fishery prior to January 1, 1973. That means that someone who entered the fishery at the last minute this year can do so but he won't get any credit toward qualifying for an entry permit. The commission will look only at what he has done in prior years.

Initial issuance of entry permits -- The commission shall issue entry permits as designated in 250.b, first to all qualified applicants, or anyone who would suffer severe economic hardship, then all applicants in descending priority classifications, until they reach the maximum number of permits for that area. How far down that list of priority classifications depends very much upon the fishery -- where the fishery is a part-time fishery you are going to be well down into the list, to the, shall we say, casual participants. In other fisheries, such as Bristol Bay, the cut-off line might be somewhat higher. In any event, no one who suffers significant hardship or economic distress will be denied a permit. If the maximum number of cuts cuts right in the middle of a priority classification, then the decision of who gets permits within that classification is by lottery. The priority