

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10380 HOUSE RESOURCES

**HB**

**206**

# ALASKA STATE LEGISLATURE

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## House Bill 206 Sponsor Statement

*"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."*

HB 206 establishes a vessel-based commercial fisheries limited entry program. The bill preserves the State's current limited entry program as the primary form of limitation, and authorizes the Commercial Fisheries Entry Commission (CFEC) to implement a vessel-based limitation in a fishery only under certain tightly defined conditions.

In its bill enacting the Hair Crab moratorium in 1996, the Legislature recognized the need to establish a vessel-based limitation program and directed CFEC and the Department of Law to draft and bring to the Legislature legislation to accomplish that. Such legislation was drafted but failed to gain passage during the 21<sup>st</sup> Session. HB 206 reintroduces enabling provisions for this important fisheries management tool

Under the current limited entry statute, CFEC may only issue limited entry permits to gear operators in a fishery, not to vessels or vessel owners. This type of limited entry system, based on an "owner-operator" model, is appropriate for fisheries where typically vessels are small and fished by one person usually in nearshore waters. But other fisheries in Alaska, particularly some of those in the Gulf of Alaska and the Bering Sea, are characterized by larger vessels fishing in offshore waters. These vessels move from area to area and may be operated by successive skippers hired by vessel owners to keep the vessel fishing throughout a season. Current law may not be appropriate or workable for this kind of fishery; in fact, it could potentially increase rather than limit the units of gear and not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Further, it would award ongoing fishing privileges to many who have worked essentially as hired crew, and not those who have invested in the fishery.

The bill establishes the framework for a vessel-based limitation system, much as existing law provides the framework for the operator-based program. One important feature included in the bill is a "second generation" provision whereby permits may be transferred only to a natural person who holds an ownership interest in the vessel, and who must subsequently be onboard the vessel when it is fishing. Effective fishery management tools, such as those authorized in HB 206, will help ensure the State has the flexibility to effectively manage a wide range of fisheries and, in some fisheries, to gain or retain State management authority in the years ahead.

Introduced 3/21/2001  
Prepared by Co-chairman Drew Scalzi

THE  
FOLLOWING  
DOCUMENT(S)  
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House Resources Committee  
Drew Scalzi, Beverly Masek , co-chairs

Re; HB206  
Testimony of Paul Seaton, 58395 Bruce Street, Homer AK 99603,  
Ph907 2356342  
April 3, 2001

Thank you Mr. Scalzi for the invitation to submit written comments prior to the consideration of HB 206 by the committee. I also include in this written testimony points that were discussed at the Fisheries Committee consideration of this bill.

When limited entry was introduced in 1973 the complexion of the industry was much the same as is stated by proponents of this bill for the necessity for vessel owner, corporate, permits. That is, the corporate canneries owned most of the salmon drift vessels in Cook Inlet and Bristol Bay. The argument is that the investment was by the vessel owner corporation [salmon canneries]. Now the same argument is that the investment is by vessel owner corporations [and processors] for scallops. The only difference is that the salmon canneries owned a fleet of small boats while the scallop corporations own one, or several, larger boats. The State specifically decided to empower the fishermen and not the investor by only granting limited entry permits to natural persons who must be actively involved in the harvest. This decision determined the course of development of the Alaskan fisheries, led to a now owner operated fleet, and a move away from corporate control by absentee owners of the lives of fishermen.

I therefore take strong exception to the assertion in the Sponsor Statement "...It would award ongoing fishing privileges to many who have worked essentially as hired crew, and not to those who have invested in the fishery." That statement implies that the State was wrong in empowering fishermen. I have no doubt that if this provision had been included in the original plan it would have been voted down in 1973, as it should be now.

Although the point of this testimony is not to present alternatives to accomplish the findings for the bill, I wish to point out that the situation has greatly changed since the original moratorium was enacted. At that time there was no way to limit entry into the federal fisheries which are the predominate subject of this bill. Now, the Federal License Limitation Program (LLP) is in place for groundfish and crab fisheries. This program allows designation by gear type, area, and species endorsements. So a simple solution is to have the members of these industries petition the North Pacific Fisheries Management Council to add a species and possibly area endorsement based on past participation to the current LLPs. The need for State action no longer exists to accomplish their desired goals.

Pg 1 of 3

This in no way affects the ability of the State to manage those fisheries for the NPFMC as its management designee. In fact, the State currently manages all Bering Sea crab fisheries but any participant in those federal waters is required to have a federal crab LLP. That system works well and no one is suggesting that the State needs to superimpose another State Limited Entry Permit in order to have the ability to manage that huge fishery.

#### HB 206

I dispute the validity of the FINDINGS 1 and 2.

I dispute FINDING 5. I give as example the State water sablefish fisheries on the North Gulf Coast and the Aleutian Islands. The federal vessel owner based system exists side by side with a State waters fishery that has proven to be very manageable and beneficial to small coastal Alaskan vessels from our local communities.

I give as further example the State waters Pacific cod fishery which exists in five management areas and regulates up to 25% of the Gulf of Alaska total allowable catch - determined jointly for federal and State waters. This exists alongside the federal waters vessel LLP but uses gear restriction, vessel size, and sometimes-different seasons and has been the greatest fishery boon to coastal communities and small boat fishermen for extended opportunity along the entire Gulf coast. The Board of Fishery developed this fishery predominately in response to the detrimental effects of the vessel-owner based systems developed for federal waters. We should not inflict those same type problems on our coastal fishermen by being co-opted into mirroring the federal system from which our fishermen seek relief.

#### ARTICLE 6A,

Sec.16.43.460 page 5 lines 3 - 6.

I cannot believe that this substitution clause remain intact -only allowing substitution if the original vessel was lost. If a corporation removed one vessel and used another, do they loose all claims, or do they have to sink the vessel. I do not see the point in this since after permit issuance the vessel owner can transfer his permit to a larger, more powerful, vessel without restriction by Sec.16.43.490.

Sec.16.43.470 line 15 - 17. (2) "promote" (B) "broad access to the fishery;"

This is the exact opposite of the true goal of this bill, to restrict access to the narrowest number of vessels. It underlies a rejection of the using of area fished by the operator to restrict expansion of effort while allowing past operators to get their own vessel for fishing one area. [To better explain this consider the scallop vessel that use several operators per year. Generally an operator has expertise in an area, Southeast, Kodiak, etc. If the permit was by area to the fisherman (operator), the state might

issue 4 permits but each would be for the one area that operator fished and thus the 4 permits would still just let one vessel fish the whole state – or over time this might turn into 4 smaller local vessels fishing scallops in only one area each. ]

Sec. 16.43.480 page 6 line 10 – 13.

This requires the purchaser of a permit to buy that particular vessel as well as the permit. This does not make any sense. If a person had multiple uses of his vessel, he could never sell his permit and remain fishing.

The ownership provisions in the federal system have proven to be totally ineffective. At first people "sold" 1% of their vessel to IFQ holders so they could harvest the IFQ shares without the 'owner' being on-board. Then the NPFMC raised the limit to 20%, but it is just a name and number on paper and can be added and removed for the \$150 documentation fee. This owner provision is the subject of great abuse in the federal system. If they can't make it work I don't know why the State will have any better success with the same provision.

(b) line 14

As stated by the CFEC, most of the vessels currently in question are corporate owners. Though the permit cannot be sold to another entity, the entire corporation can be acquired by a holding corporation and thus enable relatively easy transfer without the State ever knowing. If for some reason they are 'caught' the penalty on line 22 is that the permit is transferred back to the original entity.

If you want this system to go towards fisherman (owner-operator) as the bill purports for the future, any transfer to another vessel or other owner should trigger the 'only to a natural person' who must be on board provision.

SEC 16.43.490 p 7, line 11 – 24

As stated above, this provision should be entirely eliminated. If the intent is to ease this fleet into owner-operator status as stated in the Sponsor Statement and declarations by CFEC, granting such provision for the life of the vessel or until a person or vessel removes from the fishery in question is ample allowance. This provision would allow the existing corporate complexion of the fleet to continue indefinitely. Granting the vessel an absentee owner permit for the qualifying vessel's life only (without exception for loss, fire, sale etc) is a generous compromise to this corporate fleet and no substitutions should be allowed at all.

I am opposed to HB206 as unnecessary and as anathema to the State's explicit provisions to empower fishermen, and believe the consequences of adoption of HB206 would negatively influence many fisheries throughout Alaska.

*Paul K. Seaton*

79313

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB206  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Vessel Limited Entry for Commercial Fisheries BRU: Comm Fish (Limited) Entry Comm  
 Component: Comm Fish (Limited) Entry Comm  
 Sponsor: House Resources  
 Requester: House Fisheries Component Number: 471

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

No fiscal impact is anticipated.

Prepared by: Roger Kolden Phone 790-6950  
 Division: Commercial Fisheries Entry Commission Date/Time 3/23/01 12:51 PM  
 Approved by: Mary McDowell Date 03/23/2001  
 Agency: Commercial Fisheries Entry Commission

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## MEMORANDUM

March 22, 2001

**SUBJECT:** Sectional Summary of HB 206, an Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of "person" for purposes of the commercial fisheries entry program (HE 206)

**TO:** Representative Drew Scalzi  
Attn: Pat Hartley

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of HB 206, an Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of "person" for purposes of the commercial fisheries entry program.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the legislature in regard to the bill.

Section 2 of the bill amends AS 16.43 by adding a new article relating to a vessel permit system.

Sec 16.43.450 provides that the Alaska Commercial Fisheries Entry Commission may establish a vessel permit system under certain circumstances for a fishery under state management or for a fishery that occurs in the United States exclusive economic zone or in both the United States exclusive economic zone and state waters. The commission may restrict the fishery resources that may be taken under the permit, the types of gear that may be used under the permit, and the areas that may be fished under the permit. The commission in consultation with the Department of Fish and Game may also restrict the fishing capacity or effort of a vessel that can be used under a vessel permit. The commission may limit the number of vessel permits that a permit holder or group of related permit holders may hold if necessary to prevent concentration of ownership of vessel permits.

Sec. 16.43.460 provides that the commission shall establish qualifications for receiving a vessel interim-use permit or a vessel entry permit and for receiving a transferable vessel permit. Pending the issuance of vessel entry permits for a fishery, the commission shall

**Sectional Analysis**

Representative Drew Scalzi

March 22, 2001

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issue vessel interim-use permits for vessels that are potentially eligible to receive a vessel entry permit. The commission shall issue vessel entry permits to the owner of each vessel that the commission finds is eligible to receive a vessel entry permit. The commission shall adopt regulations regarding the determination of who is to receive a vessel permit for a vessel if there are competing claims to ownership of a vessel and to the right to receive the vessel permit. The commission shall also adopt regulations regarding the substitution of another vessel for a vessel that was used to establish eligibility for a vessel permit if the qualifying vessel is lost before the issuance of vessel entry permit for the qualifying vessel. The commission may incorporate some of the current vessel eligibility criteria applicable to the Bering Sea Korean hair crab fishery and the scallop fishery, if the commission establishes a vessel permit system for those fisheries.

Sec. 16.43.470 provides that the commission shall establish an optimum number range of vessel entry permits for a fishery, if the fishery experiences a long-term biological or economic change after the initial issuance of vessel entry permits for the fishery. The commission shall reduce or increase the number of vessel entry permits that are issued for a fishery, as necessary to bring the number of issued vessel entry permits within the optimum number range. If necessary to increase the number of permits to bring the number of permits into the range, the commission shall obtain fair market value for the new vessel entry permits that are issued.

Sec. 16.43.480 provides for the transfer of transferable vessel entry permits. Natural persons and entities may obtain vessel entry permits at the time of initial issuance of vessel entry permits for a fishery but an entity may subsequently receive vessel entry permits only under certain conditions. The commission may adopt regulations regarding the transfer of vessel entry permits, substitution of vessels, and expiration of nontransferable entry permits.

Sec. 16.43.490 provides that the commission may adopt regulations relating to the temporary and permanent substitution of vessels after the initial issuance of vessel entry permits.

Sec. 16.43.500 provides for the renewal of vessel interim-use permits and vessel entry permits. Failure to renew a vessel entry permit may result in forfeiture of the permit except under certain conditions.

Sec. 16.43.510 authorizes the commission to establish fees for the issuance, renewal, and application for vessel interim-use permits and vessel entry permits.

Sec. 16.43.520 sets out general provisions that are applicable to all vessel permits, and the vessel permit system.

**Section 3** of the bill amends AS 16.05.735 to provide that the state may assume management of a fishery in the offshore waters adjacent to the state if there is no federal

Representative Drew Scalzi

March 22, 2001

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fishery management plan for the fishery or if the federal government delegates authority to the state to manage the fishery.

Sections 4 - 8 of the bill make technical and conforming amendments to various provisions of AS 16.43 in order to reflect the establishment of the vessel permit system under sec. 2 of the bill.

Sections 9 - 15 of the bill make various technical and conforming amendments to several subsections of AS 16.43.970 in order to reflect the establishment of the vessel permit system under sec. 2 of the bill and the fact that entities are allowed to hold vessel permits.

Section 16 of the bill amends AS 16.43.980(a) to make technical and conforming amendments to reflect the establishment of the vessel permit system under sec. 2 of the bill.

Section 17 of the bill amends AS 16.43.990(5) to clarify the definition of "person" for purposes of AS 16.43.

Section 18 of the bill adds a new paragraph that adds a definition of "entity" to AS 16.43.990 for purposes of AS 16.43.

Section 19 of the bill provides that the Alaska Commercial Fisheries Entry Commission may adopt regulations necessary to implement provisions of the Act; however the regulations may not take effect before July 1, 2002.

Sections 20 and 21 of the bill provide that sec. 19 of the bill takes effect immediately and that the remainder of the bill takes effect July 1, 2002.

GU:med  
01-002.med

# Alaska State Legislature

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## House Resources Committee

**Introduced March 22, 2001**  
**Prepared by Rep. Drew Scalzi**

### House Bill 206

*"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."*

### Bill Explanation

As new fisheries are developed in Alaska and existing fisheries evolve, it is sometimes necessary to augment the fishery management tools available to ensure the state has the ability to provide for the sound management of the resource and the long-term health of the fisheries. HB 206 provides such a tool.

Under the current limited entry statute, AS 16.43, the Commercial Fisheries Entry Commission (CFEC) issues limited entry permits only to persons who are gear operators in a fishery, but not to vessels or vessel owners (although in many fisheries the gear operator is also the owner of the vessel used). This type of limited entry system, based on an "owner-operator" model, is appropriate for such fisheries as salmon and herring fisheries where vessels are typically fished by only one person in a season and vessels tend to be small, owned by the operator, and usually fished in nearshore waters.

Other fisheries in Alaska, particularly some of those in the Gulf of Alaska and the Bering Sea, are characterized by larger vessels fishing in offshore waters. In these fisheries, vessels move from area to area and may be operated by successive skippers hired by vessel owners to keep the vessel fishing throughout a season. A limitation in the form authorized under current law may not be appropriate or workable for this kind of fishery. In fact it could potentially increase rather than limit the units of gear in such fisheries and therefore not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Further, it would award fishing privileges to many who have worked essentially as hired crew in the fishery, and not those who have invested in the fishery.

**Detailed Sponsor  
Statement**

The Alaska Legislature recognized these problems when it enacted temporary vessel moratoria in the weathervane scallop fishery (AS 16.43.906) and the Bering Sea Korean hair crab fishery (AS 16.43.901). Fishers had petitioned the commission to limit entry in these two fisheries, but CFEC was not authorized to implement a program that limited vessels in a fishery instead of persons. The Legislature responded to the fishers' requests by establishing a four-year vessel moratorium in each fishery. Last year the legislature extended the two moratoria in recognition that they would otherwise expire with no workable method of limiting such fisheries in place. The vessel moratoria for the Bering Sea Korean hair crab fishery and the scallop fishery are now set to expire in 2003 and 2004 respectively. Enabling legislation for a vessel-based limitation program will need to be enacted soon if there is to be time to propose and adopt limitations for these fisheries before these moratoria expire.

In the legislation that originally established the Korean hair crab vessel moratorium, the legislature directed the Department of Law and CFEC to draft and bring to the legislature legislation establishing a vessel permit limited entry program that could be used when the current limited entry program would not effectively achieve the purposes of the Limited Entry Act. Such legislation was developed but did not gain passage during the 21<sup>st</sup> legislative session. HB 206 would provide the limitation tool sought by fishermen and by the legislature in its 1996 directive.

While HB 206 preserves the state's current limited entry program as the primary form of limitation, it provides the option of implementation of a vessel-based limitation program in a fishery under certain tightly defined conditions. The bill authorizes the use of the vessel permit limited entry system in a state managed fishery only if the commission determines that: (1) limitation is necessary in the fishery, (2) the vessel-based program would achieve the purposes of the Limited Entry Act (i.e. conservation of the resource and to avoid economic distress), and (3) limitation under the current operator-based program would *not* achieve those purposes. The bill also authorizes the use of the vessel-based program in a fishery that occurs in the U.S. exclusive economic zone (EEZ) or in both the EEZ and state waters *if* (1) limitation is needed, (2) the vessel-based program would achieve the purposes of the Limited Entry Act, and (3) the vessel limitation would enable the state to gain or retain management of the fishery.

The bill establishes the framework for a vessel-based limitation system, much as existing law provides the framework for the operator-based program, including provisions regarding the application process, initial issuance of permits, transferring of permits after initial issuance, establishing and adjusting the optimum number of permits, defining terms, and so on. One important feature included in the bill is a "second generation" provision whereby permits may be transferred only to a natural person and that person must hold an ownership interest in the vessel. (An exception is for the "stacking" of initially issued permits for use on one vessel, such as in the case where a vessel owner adds additional permits for a different

species, area, or gear type.) So while vessel permits may be initially issued to whatever person or entity (company, partnership, etc) owns the vessel upon the qualification date, generally those permits may subsequently only be transferred to a human being, much like the existing limited entry program wherein only individual persons may hold entry permits. Also included in the bill are provisions for vessel substitutions and permit fees and penalties.

HB 206 authorizes the state to assume management of offshore fisheries in the EEZ in the absence of a federal fishery management plan for the fishery, and when management authority for a fishery in the EEZ is delegated to the state. The scallop and Korean hair crab fisheries occur in both state waters and in adjacent federal waters of the EEZ. Management of the scallop fishery in the EEZ was delegated to the state by the federal scallop fishery management plan. Because the Bering Sea Korean hair crab fishery did not have a fishery management plan, the state assumed management of the fishery in the EEZ under provisions in the Magnuson-Stevens Fishery Management and Conservation Act. This bill will better position the state to take advantage of fishery management opportunities that may arise in the future.

Without HB206, CFEC does not have an appropriate limited entry program to use for fisheries such as Korean Hair Crab and scallops. Without a vessel permit system in place, those fisheries will likely have to be reopened to a potential influx of new participants upon expiration of the moratoria. Expeditious passage of this legislation is important if the State is to protect the resource and Alaska fishermen currently dependent on these fisheries.

Effective fishery management tools, such as those authorized in HB 206, will help ensure the State has the flexibility to manage a wide range of fisheries effectively and, in some fisheries, to gain or retain state management authority in the years ahead.

22-LS0426\B  
Utermohle  
1/30/02

2d CS FOR HOUSE BILL NO. 206(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the  
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to  
3 management of offshore fisheries, and to the definition of 'person' for purposes of the  
4 commercial fisheries entry program; and providing for an effective date."

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

6 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits  
10 the entry of natural persons into a fishery, may not adequately protect the economic health  
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery  
13 may be necessary to regulate certain fisheries in order to promote the conservation and  
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea  
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel  
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on  
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state  
7 management of fisheries that overlap with federally managed fisheries in the United States  
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve  
10 compatible state and federal management and enforcement of fisheries.

11 \* Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**  
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a  
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair  
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the  
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;  
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under  
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would  
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the  
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab  
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent  
29 with this chapter, adopt regulations to ensure that the vessel permit system is  
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the  
2 commission may limit, as the commission determines appropriate, the fishery  
3 resources that may be harvested under the vessel permit, the types of gear that may be  
4 used under the vessel permit, or the areas where fishing may occur under the vessel  
5 permit. The commission shall adopt criteria, as appropriate, for determining

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

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

11 (d) The commission may, after <sup>approval from</sup> ~~consultation with~~ the Department of Fish and  
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use  
13 permit or a vessel entry permit if the commission finds that limitations on fishing  
14 capacity or effort are necessary to achieve the purposes of this chapter. The  
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or  
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or  
17 effort are established for individual vessel interim-use permits and vessel entry  
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel  
20 permits that may be held by a permit holder or group of related permit holders if the  
21 commission finds that limiting the number of vessel permits that may be held by a  
22 permit holder or group of related permit holders is necessary to prevent the excessive  
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in  
25 which the commission establishes a vessel permit system under AS 16.43.450, the  
26 commission shall establish qualifications for vessel interim-use permits and vessel  
27 entry permits. The qualifications may include a qualification date, eligibility period,  
28 recent participation requirements, minimum requirements for the nature and degree of  
29 ownership interest that a permit holder must have in a vessel in order to receive a  
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable  
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,  
3 participants in the fishery, owners of vessels and gear used in the fishery, and other  
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature  
6 of the fishery, and the need to ensure the manageability of the fishery and conservation  
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450  
9 for a fishery that is subject to a moratorium on entry of new vessels under  
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel  
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel  
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the  
14 commission has established a vessel permit system under AS 16.43.450, the  
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the  
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel  
17 interim-use permit is renewable from year to year; however, a vessel interim-use  
18 permit expires at the end of the period for which the permit was issued and may not be  
19 renewed after a final determination by the commission that the vessel is or is not  
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to  
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the  
23 owner of each vessel that the commission finds is eligible to receive a vessel entry  
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a  
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of  
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel  
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish  
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the  
3 initial issuance of vessel entry permits for a fishery, the commission determines that a  
4 long-term biological or economic change has occurred in the fishery, the commission,  
5 in consultation with the Department of Fish and Game, shall establish the optimum  
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the  
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of  
17 vessel entry permits for a fishery if the commission finds that an established long-term  
18 change in the biological or economic condition of the fishery has occurred and that the  
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of  
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the  
22 number of outstanding vessel permits for the fishery, the commission may adopt  
23 regulations to allow the voluntary consolidation of vessel entry permits by permit  
24 holders, including entities. The commission may investigate procedures to  
25 permanently reduce the number of vessel permits issued for a fishery to within the  
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the  
28 number of permits authorized for the fishery, the commission shall issue additional  
29 vessel entry permits until the number of vessel entry permits is consistent with the  
30 optimum number range for the fishery. The commission shall obtain fair market value  
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are  
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The  
4 commission may adopt regulations authorizing the transfer of a transferable vessel  
5 entry permit to an eligible transferee and establishing the terms and conditions under  
6 which vessel entry permits may be transferred. The commission may require that the  
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel  
8 identified on the vessel entry permit. The commission may establish by regulation  
9 minimum requirements for the nature and degree of ownership interest that the  
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous  
12 transfer of a transferable vessel entry permit to an eligible transferee and the  
13 substitution of another vessel for the vessel identified on the permit under  
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of  
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission <sup>SHALL</sup> may adopt  
18 regulations providing for the permanent or temporary substitution, after the initial  
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a  
20 vessel entry permit. The commission may specify by regulation the nature and degree  
21 of legal ownership interest that a permit holder must have in the vessel that is  
22 permanently or temporarily substituted for the vessel identified on the permit. Upon  
23 the approval of a permanent substitution of a vessel, the commission shall issue a new  
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject  
26 to all terms and conditions attached to the vessel entry permit at the time that the  
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit  
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed  
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the  
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived  
4 by the commission for good cause. If an administrative closure of a fishery occurs for  
5 an entire season, the commission may not count the season toward the two-year  
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees  
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry  
9 permits. Annual fees established under this subsection may not exceed \$2,500 and  
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel  
12 interim-use permit or a vessel entry permit for a fishery in which there was an  
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for  
15 processing applications for vessel interim-use permits and vessel entry permits, for  
16 transfer of vessel entry permits, and for permanent and temporary substitution of  
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate  
19 of interest established in AS 45.45.010(a) on fees established under the section that are  
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity  
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which  
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate  
24 vessel permit has been issued for the vessel and is posted in a prominent location on  
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a  
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is  
29 consistent with regulations of the commission regarding concentration of ownership of  
30 vessel permits in the fishery; and

31 *good* (2) either

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(A) the person or entity qualified for each vessel entry permit at the time of the initial issuance of vessel entry permits for the fishery; or

(B) the vessel entry permits are issued for a vessel for which the person or entity already holds another vessel entry permit for that fishery.

(c) The operator of a vessel for which a vessel interim-use permit or vessel entry permit has been issued shall comply with the terms of the vessel permit while the vessel is operated in the fishery for which the permit is issued.

(d) A vessel interim-use permit and a vessel entry permit constitute a use privilege that may be modified or revoked by order of the commission or by law without compensation.

(e) A vessel entry permit may not be *Permits not vessel?*  
(1) pledged, mortgaged, leased, or encumbered in any way;  
(2) transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court.

(f) Unless the person who holds a vessel entry permit has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the person, transfer the vessel entry permit by right of survivorship directly to the person's surviving spouse or, if no spouse survives, to another person designated by the vessel permit holder on a form provided by the commission. If no spouse survives and if the person designated on the form, if any, does not survive, the permit passes as part of the vessel permit holder's estate. A designation under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the vessel permit holder. A vessel entry permit is exempt from the claims of creditors of the estate.

(g) ~~AS 16.43.450 - 16.43.520~~ do not alter the requirement for an interim-use permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 - 16.05.520

(h) Nothing in ~~AS 16.43.450 - 16.43.520~~ limits the powers of the Board of

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Fisheries or the Department of Fish and Game.

(i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may release to the owner of a vessel information on the vessel's history of harvests in a fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit unde. AS 16.43.450 - 16.43.520.

\* Sec. 3. AS 16.05.735 is amended to read:

Sec. 16.05.735. Management of offshore fisheries. The state may assume management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to the state in the absence of a federal fishery management plan for the fishery [SCALLOPS] or in the event that a federal fishery management plan for the fishery [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP FISHERIES] in the United States exclusive economic zone.

*Yes - asserts state rights*

\* Sec. 4. AS 16.43.010(a) is amended to read:

(a) It is the purpose of this chapter to promote the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry of participants and vessels into the commercial fisheries in the public interest and without unjust discrimination.

*Justification to specify substitution language rather than the description of the commission*

\* Sec. 5. AS 16.43.100(a) is amended to read:

- (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
  - (1) regulate entry into the commercial fisheries for all fishery resources in the state;
  - (2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;
  - (3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;
  - (4) establish, for all types of gear, the maximum number of entry permits for each administrative area;
  - (5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

- 1 (6) establish qualifications for the issuance of entry permits;  
2 (7) issue entry permits to qualified applicants;  
3 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,  
4 and 16.43.225;  
5 (9) establish, for all types of gear, the optimum number of entry  
6 permits for each administrative area;  
7 (10) administer the buy-back program provided for in AS 16.43.310  
8 and 16.43.320 to reduce the number of outstanding entry permits to the optimum  
9 number of entry permits;  
10 (11) provide for the transfer and reissuance of entry permits to  
11 qualified transferees;  
12 (12) provide for the transfer and reissuance of entry permits for  
13 alternative types of legal gear, in a manner consistent with the purposes of this  
14 chapter;  
15 (13) establish and administer the collection of the annual fees provided  
16 for in AS 16.43.160;  
17 (14) administer the issuance of commercial fishing vessel licenses  
18 under AS 16.05.490;  
19 (15) issue educational entry permits to applicants who qualify under  
20 the provisions of AS 16.43.340 - 16.43.390;  
21 (16) establish reasonable user fees for services;  
22 (17) issue landing permits under AS 16.05.675 and regulations adopted  
23 under that section;  
24 (18) establish and collect annual fees for the issuance of landing  
25 permits that reasonably reflect the costs incurred in the administration and  
26 enforcement of provisions of law related to landing permits; [AND]  
27 (19) establish a moratorium on entry into commercial fisheries as  
28 provided in AS 16.43.225; and  
29 (20) administer, when necessary to accomplish the purposes of this  
30 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

31 \* Sec. 6. AS 16.43.240(b) is amended to read:

1 (b) When the commission finds that a fishery, not designated as a distressed  
2 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has  
3 reached levels of participation that require the limitation of entry under AS 16.43.140  
4 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall  
5 establish the maximum number of entry permits for that fishery.

6 \* Sec. 7. AS 16.43.240(c) is amended to read:

7 (c) When the commission finds that a fishery subject to a moratorium under  
8 AS 16.43.225 has reached levels of participation that require the limitation of entry  
9 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the  
10 commission shall establish the maximum number of entry permits for that fishery.

11 \* Sec. 8. AS 16.43.960(a) is amended to read:

12 (a) The commission may revoke, suspend, or transfer all entry or interim-use  
13 permits, vessel entry permits, or vessel interim-use permits held by a person or  
14 entity who knowingly provides or assists in providing false information, or fails to  
15 correct false information provided to the commission for the purpose of obtaining a  
16 benefit for self or another, including the issuance, renewal, duplication, or transfer of  
17 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel  
18 interim-use permit. The commission may suspend, as appropriate, that person's or  
19 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or  
20 vessel interim-use permit for a period not to exceed three years, and may impose an  
21 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION  
22 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
23 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
24 knowingly provide or assist in providing false information, or fail to correct false  
25 information provided, to the commission for the purpose of obtaining a benefit.

26 \* Sec. 9. AS 16.43.970(a) is amended to read:

27 (a) A person who violates a provision of this chapter or a regulation adopted  
28 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
29 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
30 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
31 first conviction, and a fine of not more than \$10,000 for a second or third conviction.

1 Upon a first or second conviction under this subsection, the court may in its discretion  
2 also order the commission to suspend the commercial fishing privileges of the person  
3 or entity for a period of not more than three years and to revoke one or more or all  
4 commercial fishing permits held by the person or entity. Upon a third or subsequent  
5 conviction under this subsection, the person or entity is also subject to a loss of  
6 commercial fishing privileges as provided under (i) of this section. This subsection  
7 does not apply to violations of AS 16.43.140(a).

8 \* Sec. 10. AS 16.43.970(b) is amended to read:

9 (b) A person or entity who knowingly makes a false statement to the  
10 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
11 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
12 interim-use permit. or vessel entry permit, or a person who assists another by  
13 knowingly making a false statement to the commission for the purpose of obtaining a  
14 benefit for another, is guilty of the crime of unsworn falsification as set out in  
15 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
16 commercial fishing privileges and revocation of commercial fishing permits under (i)  
17 of this section.

18 \* Sec. 11. AS 16.43.970(d) is amended to read:

19 (d) If a permit holder is charged by the state with violating a provision of this  
20 chapter or a regulation adopted under this chapter, the holder may not transfer [,  
21 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any  
22 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the  
23 final adjudication or dismissal of the charges.

24 \* Sec. 12. AS 16.43.970(e) is amended to read:

25 (e) Notwithstanding any other provision of this section, an interim-use or entry  
26 permit or transferable vessel entry permit may not be transferred while under  
27 suspension, without the consent of the commission.

28 \* Sec. 13. AS 16.43.970(f) is amended to read:

29 (f) A commercial fishing entry permit revoked under this section that is  
30 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231  
31 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

1 \* Sec. 14. AS 16.43.970(i) is amended to read:

2 (i) Upon the conviction of a person or entity for an offense described under  
3 (a), (b), or (g) of this section, the court shall immediately notify the commission of the  
4 conviction. The notice provided by the court shall be accompanied by an order  
5 suspending commercial fishing privileges and revoking commercial fishing permits  
6 under (a) of this section, as appropriate. The commission shall, upon receipt of

7 (1) an order from the court under (a) of this section, suspend the  
8 commercial fishing privileges of a person or entity for the period set by the court and  
9 revoke commercial fishing permits held by the person or entity as directed by the  
10 court;

11 (2) a notice from the court that a person or entity has been convicted  
12 of a third or subsequent violation of (a) of this section, suspend all commercial fishing  
13 privileges of the person or entity for a period of three years from the date of  
14 conviction and revoke all commercial fishing permits held by the person or entity;

15 (3) a notice from the court that a person or entity has been convicted  
16 of a violation described under (b) of this section, suspend all commercial fishing  
17 privileges of the person or entity for a period of three years from the date of  
18 conviction and revoke all commercial fishing permits held by the person or entity;

19 (4) a notice from the court that a person has been convicted of a  
20 violation described under (g)(1) of this section, suspend all commercial fishing  
21 privileges of the person for a period of one year from the date of conviction;

22 (5) a notice from the court that a person has been convicted of a  
23 violation described under (g)(2) of this section, suspend all commercial fishing  
24 privileges of the person for a period of two years from the date of conviction;

25 (6) a notice from the court that a person has been convicted of a  
26 violation described under (g)(3) of this section, suspend all commercial fishing  
27 privileges of the person for a period of five years from the date of conviction.

28 \* Sec. 15. AS 16.43.970(j)(1) is amended to read:

29 (1) "commercial fishing permit" means an entry permit, [OR] an  
30 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued  
31 under this chapter;

1 \* Sec. 16. AS 16.43.980(a) is amended to read:

2 (a) The commission shall prepare an annual report and notify the legislature  
3 that it is available. The report must [SHALL] include but not be limited to the  
4 following:

5 (1) a progress report on the reduction of entry permits to optimum  
6 levels;

7 (2) recommendations for additional legislation relating to the  
8 regulation of entry of participants and vessels into Alaska commercial fisheries.

9 \* Sec. 17. AS 16.43.990(5) is amended to read:

10 (5) "person" means a natural person; "person" [AND] does not  
11 include a corporation, company, partnership, firm, association, organization, joint  
12 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural  
13 person;

14 \* Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

15 (10) "entity" means a corporation, company, partnership, firm,  
16 association, organization, joint venture, trust, society, or other legal entity, other than a  
17 natural person.

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

Proposed Amendments for 2<sup>nd</sup> CS HB-206  
Representative Masek

Page 6; line 17: The commission shall [MAY] adopt .

Rationale: This ensures that the commission will provide opportunity for the leasing of vessels.

Page 3; line 11: The commission may, after approval from [ ~~CONSULTATION WITH~~] the Department of Fish and Game.

Rationale: Once this bill takes effect, regulation of fishing capacity will no longer fall under the jurisdiction of the moratorium. The Department of Fish and Game currently has adopted a position on this issue that is very similar to that of the Federal regulations.

*not done*

Proposed Amendments for 2<sup>nd</sup> CS HB-206  
Representative Masek

#1  
passed

Page 6; line 17: The commission shall [MAY] adopt .

Rationale: This ensures that the commission will provide opportunity for the leasing of vessels.

#2

Page 3; line 11: The commission may, after approval from [ CONSULTATION WITH] the Department of Fish and Game.

Rationale: Once this bill takes effect, regulation of fishing capacity will no longer fall under the jurisdiction of the moratorium. The Department of Fish and Game currently has adopted a position on this issue that is very similar to that of the Federal regulations.

## Proposed Second House Resources CS for HB 206 (Work Draft 22-LS0426\B)

The primary focus of the changes being proposed to the version of HB206 adopted by the House Resources committee in 2001 is removal of the so-called "second-generation" provision. The goal of that provision was to provide a mechanism whereby fisheries limited under the vessel-based limited entry system authorized by the bill, would, over time, evolve increasingly toward being 'owner-operator' in character. Alaska's current limited entry program is based on the owner-operator model, (which is characteristic of Alaska's salmon fisheries and most other state-managed fisheries), and is designed to perpetuate that character in fisheries after limitation. The second-generation provision was primarily included in the original HB206 because that bill provided generic authority to the Commercial Fisheries Entry Commission (CFEC) to use this new vessel-based limited entry system in any fisheries in the future that met criteria specified in the bill.

After considerable deliberation, the House Resources Committee amended HB206 just before moving it from committee to narrow the scope of the bill to authorize the use of the vessel-based program ONLY for limitation of the scallop and Korean Hair Crab fisheries. The committee substitute version of the bill removed authority for the commission to use the vessel-based program to limit any other fisheries. The scallop and hair crab fisheries are not currently owner-operator in nature. Applying the "second-generation" criteria to permit transfers in these fisheries would be cumbersome, at best. Vessel owners in these fisheries have raised concern about impacts of the provision and asked that it be removed, now that the bill pertains only to these 2 fisheries.

The proposed Second Resources CS (Work Draft 22-LS0426\B) is substantially the same as the first Resources CS as the program authorized is virtually the same and the draft bill still authorizes the use of the vessel-based limitation program only for the scallop and hair crab fisheries. The primary focus of the revisions proposed in the draft is removal of the second-generation provision. Thus, if one or both of these two fisheries were to be limited under this program, a holder of a vessel entry permit would not be restricted to transferring the permit only to an individual human being, but would be able to transfer the permit to a partnership, company, or other "entity." Over time, ownership patterns in the fishery would likely stay very similar to what they are today.

Most other revisions proposed in the draft second CS are simply changes needed to make other provisions of the bill consistent with the removal of the second-generation provision or to provide clarity. The comparison on the following two pages explains each change proposed in the work draft.

Work Draft 22-LS0426\B makes the following changes to CSHB206(RES):

**P.4, line 30, after “vessel,” insert: “or vessels”**

*Purpose of change: Acknowledges that participation using more than one vessel may be counted toward eligibility for a vessel permit.*

**P.4, line 31, change “is” or “are” and insert after “lost,”: “or are retired from the fishery by the vessel owner,”**

*Purpose: Allows flexibility in situations where a vessel leaves the fishery due to a decision of the owner to retire the vessel from the fishery, rather than to the sinking of the vessel.*

**P.6, line 5, insert “and establishing the terms and conditions under which vessel entry permits may be transferred. The commission may require that”**

*Purpose: Makes clear that commission has authority to set requirements such as having permit transfer paperwork come through the commission, just as all transfers of limited entry permits must do now, and to require information about ownership of the entity to which a permit is being transferred. This is necessary to ensure compliance with provisions such as those aimed at preventing excessive concentration of ownership.*

*Adding “commission may require that,” would allow flexibility for vessel permit holders to lease, rather than own a vessel in the future. This may help make it possible for those who can't afford to purchase both a permit and a vessel to enter the fishery.*

**P. 6, after line 10 – delete the ‘second-generation’ language that in HB 206 and in CSHB206(RES) (p.6, lines 9-28 of CS) prohibited the transfer of vessel permits to ‘entities’ (anything other than one human being).**

*Purpose: See explanation on previous page.*

**P. 6, delete provision that commission may prohibit involuntary transfers (p.7, line 2-3 of Res CS)**

*Purpose: Issue is covered more thoroughly in new provisions on p. 8 of draft bill.*

**P. 6, lines 20-22: sentences combined and reworded (for clarity), and added “may” in line 20.**

*Purpose of adding “may”:* Provides flexibility to allow permit holders to use a leased vessel, partner with someone else who owns the vessel, or participate in some other arrangement besides owning both the permit and part or all of the vessel to be used.

**Deleted lines 24-25 of p.7 of Res CS.**

*Purpose: To be consistent with removal of second generation provision.*

**Deleted p.8, lines 18-21 of Res CS.**

*Purpose: To be consistent with removal of second-generation language as future permit holders can be entities, rather than persons, so can't require to that vessel owner be on board.*

**P. 8, inserted lines 11-27**

*Purpose: Added language that mirrors provisions in current limited entry statute to make it clear that vessel entry permits, like limited entry permits, constitute a "fishing privilege," not property, and to provide right of survivorship and other provisions for transfer of a permit upon the death of the permit holder in circumstances where holder of the vessel entry permit is a natural person, rather than an entity.*

**P. 10, lines 29-30, insert: "when necessary to accomplish the purposes of this chapter,"**

*Purpose: Recognizes that CFEC may or may not opt to utilize the vessel entry permit system authorized by this bill. If CFEC opts to not limit the two subject fisheries at all, or opts not to use this alternate program for either one, there would be no need to require the commission to "administer a vessel permit system."*

**P. 14, line 18, replace staggered effective dates with one immediate effective date for whole bill.**

*Purpose: The more elaborate effective date clauses were included in original bill because it provided "generic authority" and because, at the time of introduction, the moratoria in the scallop and hair crab fisheries were to expire soon. With the narrowed scope of bill, and the extensions made by the legislature to the two moratoria, the bill now needs only a simple immediate effective date for all sections of the bill.*

**2d CS FOR HOUSE BILL NO. 206(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the  
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to  
3 management of offshore fisheries, and to the definition of 'person' for purposes of the  
4 commercial fisheries entry program; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits  
10 the entry of natural persons into a fishery, may not adequately protect the economic health  
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery  
13 may be necessary to regulate certain fisheries in order to promote the conservation and  
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea  
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel  
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on  
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state  
7 management of fisheries that overlap with federally managed fisheries in the United States  
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve  
10 compatible state and federal management and enforcement of fisheries.

11 \* **Sec. 2.** AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**  
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a  
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair  
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the  
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;  
20 and

21 (3) either  
22 (A) limiting the number of participants in the fishery under  
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or  
24 (B) regulating the number of vessels in the fishery would  
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the  
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab  
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent  
29 with this chapter, adopt regulations to ensure that the vessel permit system is  
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area. the  
2 commission may limit, as the commission determines appropriate, the fishery  
3 resources that may be harvested under the vessel permit, the types of gear that may be  
4 used under the vessel permit, or the areas where fishing may occur under the vessel  
5 permit. The commission shall adopt criteria, as appropriate, for determining

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

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

11 (d) The commission may, after consultation with the Department of Fish and  
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use  
13 permit or a vessel entry permit if the commission finds that limitations on fishing  
14 capacity or effort are necessary to achieve the purposes of this chapter. The  
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or  
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or  
17 effort are established for individual vessel interim-use permits and vessel entry  
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel  
20 permits that may be held by a permit holder or group of related permit holders if the  
21 commission finds that limiting the number of vessel permits that may be held by a  
22 permit holder or group of related permit holders is necessary to prevent the excessive  
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in  
25 which the commission establishes a vessel permit system under AS 16.43.450, the  
26 commission shall establish qualifications for vessel interim-use permits and vessel  
27 entry permits. The qualifications may include a qualification date, eligibility period,  
28 recent participation requirements, minimum requirements for the nature and degree of  
29 ownership interest that a permit holder must have in a vessel in order to receive a  
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable  
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,  
3 participants in the fishery, owners of vessels and gear used in the fishery, and other  
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature  
6 of the fishery, and the need to ensure the manageability of the fishery and conservation  
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450  
9 for a fishery that is subject to a moratorium on entry of new vessels under  
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel  
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel  
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the  
14 commission has established a vessel permit system under AS 16.43.450, the  
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the  
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel  
17 interim-use permit is renewable from year to year; however, a vessel interim-use  
18 permit expires at the end of the period for which the permit was issued and may not be  
19 renewed after a final determination by the commission that the vessel is or is not  
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to  
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the  
23 owner of each vessel that the commission finds is eligible to receive a vessel entry  
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a  
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of  
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel  
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish  
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the  
3 initial issuance of vessel entry permits for a fishery, the commission determines that a  
4 long-term biological or economic change has occurred in the fishery, the commission,  
5 in consultation with the Department of Fish and Game, shall establish the optimum  
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the  
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of  
17 vessel entry permits for a fishery if the commission finds that an established long-term  
18 change in the biological or economic condition of the fishery has occurred and that the  
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of  
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the  
22 number of outstanding vessel permits for the fishery, the commission may adopt  
23 regulations to allow the voluntary consolidation of vessel entry permits by permit  
24 holders, including entities. The commission may investigate procedures to  
25 permanently reduce the number of vessel permits issued for a fishery to within the  
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the  
28 number of permits authorized for the fishery, the commission shall issue additional  
29 vessel entry permits until the number of vessel entry permits is consistent with the  
30 optimum number range for the fishery. The commission shall obtain fair market value  
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are  
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The  
4 commission may adopt regulations authorizing the transfer of a transferable vessel  
5 entry permit to an eligible transferee and establishing the terms and conditions under  
6 which vessel entry permits may be transferred. The commission may require that the  
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel  
8 identified on the vessel entry permit. The commission may establish by regulation  
9 minimum requirements for the nature and degree of ownership interest that the  
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous  
12 transfer of a transferable vessel entry permit to an eligible transferee and the  
13 substitution of another vessel for the vessel identified on the permit under  
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of  
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt  
18 regulations providing for the permanent or temporary substitution, after the initial  
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a  
20 vessel entry permit. The commission may specify by regulation the nature and degree  
21 of legal ownership interest that a permit holder must have in the vessel that is  
22 permanently or temporarily substituted for the vessel identified on the permit. Upon  
23 the approval of a permanent substitution of a vessel, the commission shall issue a new  
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject  
26 to all terms and conditions attached to the vessel entry permit at the time that the  
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit  
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed  
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the  
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived  
4 by the commission for good cause. If an administrative closure of a fishery occurs for  
5 an entire season, the commission may not count the season toward the two-year  
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees  
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry  
9 permits. Annual fees established under this subsection may not exceed \$2,500 and  
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel  
12 interim-use permit or a vessel entry permit for a fishery in which there was an  
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for  
15 processing applications for vessel interim-use permits and vessel entry permits, for  
16 transfer of vessel entry permits, and for permanent and temporary substitution of  
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate  
19 of interest established in AS 45.45.010(a) on fees established under the section that are  
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity  
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which  
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate  
24 vessel permit has been issued for the vessel and is posted in a prominent location on  
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a  
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is  
29 consistent with regulations of the commission regarding concentration of ownership of  
30 vessel permits in the fishery; and

31 (2) either

1 (A) the person or entity qualified for each vessel entry permit at  
2 the time of the initial issuance of vessel entry permits for the fishery; or

3 (B) the vessel entry permits are issued for a vessel for which  
4 the person or entity already holds another vessel entry permit for that fishery.

5 (c) The operator of a vessel for which a vessel interim-use permit or vessel  
6 entry permit has been issued shall comply with the terms of the vessel permit while the  
7 vessel is operated in the fishery for which the permit is issued.

8 (d) A vessel interim-use permit and a vessel entry permit constitute a use  
9 privilege that may be modified or revoked by order of the commission or by law  
10 without compensation.

11 (e) A vessel entry permit may not be

12 (1) pledged, mortgaged, leased, or encumbered in any way;

13 (2) transferred with any retained right of repossession or foreclosure,  
14 or on any condition requiring a subsequent transfer; or

15 (3) attached, distrained, or sold on execution of judgment or under any  
16 other process or order of any court.

17 (f) Unless the person who holds a vessel entry permit has expressed a contrary  
18 intent in a will that is probated, the commission shall, upon the death of the person,  
19 transfer the vessel entry permit by right of survivorship directly to the person's  
20 surviving spouse or, if no spouse survives, to another person designated by the vessel  
21 permit holder on a form provided by the commission. If no spouse survives and if the  
22 person designated on the form, if any, does not survive, the permit passes as part of the  
23 vessel permit holder's estate. A designation under this subsection must be  
24 acknowledged before a person authorized to administer an oath under AS 09.63.010 or  
25 must be witnessed by two persons who are qualified under AS 13.12.505 to witness  
26 the will of the vessel permit holder. A vessel entry permit is exempt from the claims of  
27 creditors of the estate.

28 (g) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use  
29 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -  
30 16.05.520.

31 (h) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of

1 Fisheries or the Department of Fish and Game.

2 (i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
3 release to the owner of a vessel information on the vessel's history of harvests in a  
4 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit  
5 under AS 16.43.450 - 16.43.520.

6 \* Sec. 3. AS 16.05.735 is amended to read:

7 Sec. 16.05.735. Management of offshore fisheries. The state may assume  
8 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to  
9 the state in the absence of a federal fishery management plan for the fishery  
10 [SCALLOPS] or in the event that a federal fishery management plan for the fishery  
11 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP  
12 FISHERIES] in the United States exclusive economic zone.

13 \* Sec. 4. AS 16.43.010(a) is amended to read:

14 (a) It is the purpose of this chapter to promote the conservation and the  
15 sustained yield management of Alaska's fishery resource and the economic health and  
16 stability of commercial fishing in Alaska by regulating and controlling entry of  
17 participants and vessels into the commercial fisheries in the public interest and  
18 without unjust discrimination.

19 \* Sec. 5. AS 16.43.100(a) is amended to read:

20 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall  
21 (1) regulate entry into the commercial fisheries for all fishery resources  
22 in the state;  
23 (2) establish priorities for the application of the provisions of this  
24 chapter to the various commercial fisheries of the state;  
25 (3) establish administrative areas suitable for regulating and  
26 controlling entry into the commercial fisheries;  
27 (4) establish, for all types of gear, the maximum number of entry  
28 permits for each administrative area;  
29 (5) designate, when necessary to accomplish the purposes of this  
30 chapter, particular species for which separate interim-use permits or entry permits will  
31 be issued;

- 1 (6) establish qualifications for the issuance of entry permits;  
2 (7) issue entry permits to qualified applicants;  
3 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,  
4 and 16.43.225;  
5 (9) establish, for all types of gear, the optimum number of entry  
6 permits for each administrative area;  
7 (10) administer the buy-back program provided for in AS 16.43.310  
8 and 16.43.320 to reduce the number of outstanding entry permits to the optimum  
9 number of entry permits;  
10 (11) provide for the transfer and reissuance of entry permits to  
11 qualified transferees;  
12 (12) provide for the transfer and reissuance of entry permits for  
13 alternative types of legal gear, in a manner consistent with the purposes of this  
14 chapter;  
15 (13) establish and administer the collection of the annual fees provided  
16 for in AS 16.43.160;  
17 (14) administer the issuance of commercial fishing vessel licenses  
18 under AS 16.05.490;  
19 (15) issue educational entry permits to applicants who qualify under  
20 the provisions of AS 16.43.340 - 16.43.390;  
21 (16) establish reasonable user fees for services;  
22 (17) issue landing permits under AS 16.05.675 and regulations adopted  
23 under that section;  
24 (18) establish and collect annual fees for the issuance of landing  
25 permits that reasonably reflect the costs incurred in the administration and  
26 enforcement of provisions of law related to landing permits; [AND]  
27 (19) establish a moratorium on entry into commercial fisheries as  
28 provided in AS 16.43.225; and  
29 (20) administer, when necessary to accomplish the purposes of this  
30 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

31 \* Sec. 6. AS 16.43.240(b) is amended to read:

1 (b) When the commission finds that a fishery, not designated as a distressed  
2 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has  
3 reached levels of participation that require the limitation of entry under AS 16.43.140  
4 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall  
5 establish the maximum number of entry permits for that fishery.

6 \* Sec. 7. AS 16.43.240(c) is amended to read:

7 (c) When the commission finds that a fishery subject to a moratorium under  
8 AS 16.43.225 has reached levels of participation that require the limitation of entry  
9 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the  
10 commission shall establish the maximum number of entry permits for that fishery.

11 \* Sec. 8. AS 16.43.960(a) is amended to read:

12 (a) The commission may revoke, suspend, or transfer all entry or interim-use  
13 permits, vessel entry permits, or vessel interim-use permits held by a person or  
14 entity who knowingly provides or assists in providing false information, or fails to  
15 correct false information provided to the commission for the purpose of obtaining a  
16 benefit for self or another, including the issuance, renewal, duplication, or transfer of  
17 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel  
18 interim-use permit. The commission may suspend, as appropriate, that person's or  
19 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or  
20 vessel interim-use permit for a period not to exceed three years, and may impose an  
21 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION  
22 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
23 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
24 knowingly provide or assist in providing false information, or fail to correct false  
25 information provided, to the commission for the purpose of obtaining a benefit.

26 \* Sec. 9. AS 16.43.970(a) is amended to read:

27 (a) A person who violates a provision of this chapter or a regulation adopted  
28 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
29 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
30 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
31 first conviction, and a fine of not more than \$10,000 for a second or third conviction.

1 Upon a first or second conviction under this subsection, the court may in its discretion  
2 also order the commission to suspend the commercial fishing privileges of the person  
3 or entity for a period of not more than three years and to revoke one or more or all  
4 commercial fishing permits held by the person or entity. Upon a third or subsequent  
5 conviction under this subsection, the person or entity is also subject to a loss of  
6 commercial fishing privileges as provided under (i) of this section. This subsection  
7 does not apply to violations of AS 16.43.140(a).

8 \* Sec. 10. AS 16.43.970(b) is amended to read:

9 (b) A person or entity who knowingly makes a false statement to the  
10 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
11 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
12 interim-use permit, or vessel entry permit, or a person who assists another by  
13 knowingly making a false statement to the commission for the purpose of obtaining a  
14 benefit for another, is guilty of the crime of unsworn falsification as set out in  
15 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
16 commercial fishing privileges and revocation of commercial fishing permits under (i)  
17 of this section.

18 \* Sec. 11. AS 16.43.970(d) is amended to read:

19 (d) If a permit holder is charged by the state with violating a provision of this  
20 chapter or a regulation adopted under this chapter, the holder may not transfer [,  
21 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any  
22 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the  
23 final adjudication or dismissal of the charges.

24 \* Sec. 12. AS 16.43.970(e) is amended to read:

25 (e) Notwithstanding any other provision of this section, an interim-use or entry  
26 permit or transferable vessel entry permit may not be transferred while under  
27 suspension, without the consent of the commission.

28 \* Sec. 13. AS 16.43.970(f) is amended to read:

29 (f) A commercial fishing entry permit revoked under this section that is  
30 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231  
31 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

1 \* Sec. 14. AS 16.43.970(i) is amended to read:

2 (i) Upon the conviction of a person or entity for an offense described under  
3 (a), (b), or (g) of this section, the court shall immediately notify the commission of the  
4 conviction. The notice provided by the court shall be accompanied by an order  
5 suspending commercial fishing privileges and revoking commercial fishing permits  
6 under (a) of this section, as appropriate. The commission shall, upon receipt of

7 (1) an order from the court under (a) of this section, suspend the  
8 commercial fishing privileges of a person or entity for the period set by the court and  
9 revoke commercial fishing permits held by the person or entity as directed by the  
10 court;

11 (2) a notice from the court that a person or entity has been convicted  
12 of a third or subsequent violation of (a) of this section, suspend all commercial fishing  
13 privileges of the person or entity for a period of three years from the date of  
14 conviction and revoke all commercial fishing permits held by the person or entity;

15 (3) a notice from the court that a person or entity has been convicted  
16 of a violation described under (b) of this section, suspend all commercial fishing  
17 privileges of the person or entity for a period of three years from the date of  
18 conviction and revoke all commercial fishing permits held by the person or entity;

19 (4) a notice from the court that a person has been convicted of a  
20 violation described under (g)(1) of this section, suspend all commercial fishing  
21 privileges of the person for a period of one year from the date of conviction;

22 (5) a notice from the court that a person has been convicted of a  
23 violation described under (g)(2) of this section, suspend all commercial fishing  
24 privileges of the person for a period of two years from the date of conviction;

25 (6) a notice from the court that a person has been convicted of a  
26 violation described under (g)(3) of this section, suspend all commercial fishing  
27 privileges of the person for a period of five years from the date of conviction.

28 \* Sec. 15. AS 16.43.970(j)(1) is amended to read:

29 (1) "commercial fishing permit" means an entry permit, [OR] an  
30 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued  
31 under this chapter;

1 \* Sec. 16. AS 16.43.980(a) is amended to read:

2 (a) The commission shall prepare an annual report and notify the legislature  
3 that it is available. The report must [SHALL] include but not be limited to the  
4 following:

5 (1) a progress report on the reduction of entry permits to optimum  
6 levels;

7 (2) recommendations for additional legislation relating to the  
8 regulation of entry of participants and vessels into Alaska commercial fisheries.

9 \* Sec. 17. AS 16.43.990(5) is amended to read:

10 (5) "person" means a natural person; "person" [AND] does not  
11 include a corporation, company, partnership, firm, association, organization, joint  
12 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural  
13 person;

14 \* Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

15 (10) "entity" means a corporation, company, partnership, firm,  
16 association, organization, joint venture, trust, society, or other legal entity other than a  
17 natural person.

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

## Proposed Second House Resources CS for HB 206 (Work Draft 22-LS0426\B)

The primary focus of the changes being proposed to the version of HB206 adopted by the House Resources committee in 2001 is removal of the so-called "second-generation" provision. The goal of that provision was to provide a mechanism whereby fisheries limited under the vessel-based limited entry system authorized by the bill, would, over time, evolve increasingly toward being 'owner-operator' in character. Alaska's current limited entry program is based on the owner-operator model, (which is characteristic of Alaska's salmon fisheries and most other state-managed fisheries), and is designed to perpetuate that character in fisheries after limitation. The second-generation provision was primarily included in the original HB206 because that bill provided generic authority to the Commercial Fisheries Entry Commission (CFEC) to use this new vessel-based limited entry system in any fisheries in the future that met criteria specified in the bill.

After considerable deliberation, the House Resources Committee amended HB206 just before moving it from committee to narrow the scope of the bill to authorize the use of the vessel-based program ONLY for limitation of the scallop and Korean Hair Crab fisheries. The committee substitute version of the bill removed authority for the commission to use the vessel-based program to limit any other fisheries. The scallop and hair crab fisheries are not currently owner-operator in nature. Applying the "second-generation" criteria to permit transfers in these fisheries would be cumbersome, at best. Vessel owners in these fisheries have raised concern about impacts of the provision and asked that it be removed, now that the bill pertains only to these 2 fisheries.

The proposed Second Resources CS (Work Draft 22-LS0426\B) is substantially the same as the first Resources CS as the program authorized is virtually the same and the draft bill still authorizes the use of the vessel-based limitation program only for the scallop and hair crab fisheries. The primary focus of the revisions proposed in the draft is removal of the second-generation provision. Thus, if one or both of these two fisheries were to be limited under this program, a holder of a vessel entry permit would not be restricted to transferring the permit only to an individual human being, but would be able to transfer the permit to a partnership, company, or other "entity." Over time, ownership patterns in the fishery would likely stay very similar to what they are today.

Most other revisions proposed in the draft second CS are simply changes needed to make other provisions of the bill consistent with the removal of the second-generation provision or to provide clarity. The comparison on the following two pages explains each change proposed in the work draft.

Work Draft 22-LS0426\B makes the following changes to CSHB206(RES):

**P.4, line 30, after “vessel,” insert: “or vessels”**

*Purpose of change: Acknowledges that participation using more than one vessel may be counted toward eligibility for a vessel permit.*

**P.4, line 31, change “is” or “are” and insert after “lost,”: “or are retired from the fishery by the vessel owner,”**

*Purpose: Allows flexibility in situations where a vessel leaves the fishery due to a decision of the owner to retire the vessel from the fishery, rather than to the sinking of the vessel.*

**P.6, line 5, insert “and establishing the terms and conditions under which vessel entry permits may be transferred. The commission may require that”**

*Purpose: Makes clear that commission has authority to set requirements such as having permit transfer paperwork come through the commission, just as all transfers of limited entry permits must do now, and to require information about ownership of the entity to which a permit is being transferred. This is necessary to ensure compliance with provisions such as those aimed at preventing excessive concentration of ownership.*

*Adding “commission may require that,” would allow flexibility for vessel permit holders to lease, rather than own a vessel in the future. This may help make it possible for those who can’t afford to purchase both a permit and a vessel to enter the fishery.*

**P. 6, after line 10 – delete the ‘second-generation’ language that in HB 206 and in CSHB206(RES) (p.6, lines 9-28 of CS) prohibited the transfer of vessel permits to ‘entities’ (anything other than one human being).**

*Purpose: See explanation on previous page.*

**P. 6, delete provision that commission may prohibit involuntary transfers (p.7, line 2-3 of Res CS)**

*Purpose: Issue is covered more thoroughly in new provisions on p. 8 of draft bill.*

**P. 6, lines 20-22: sentences combined and reworded (for clarity), and added “may” in line 20.**

*Purpose of adding “may”:* Provides flexibility to allow permit holders to use a leased vessel, partner with someone else who owns the vessel, or participate in some other arrangement besides owning both the permit and part or all of the vessel to be used.

**Deleted lines 24-25 of p.7 of Res CS.**

*Purpose: To be consistent with removal of second generation provision.*

**Deleted p.8, lines 18-21 of Res CS.**

*Purpose: To be consistent with removal of second-generation language as future permit holders can be entities, rather than persons, so can't require to that vessel owner be on board.*

**P. 8, inserted lines 11-27**

*Purpose: Added language that mirrors provisions in current limited entry statute to make it clear that vessel entry permits, like limited entry permits, constitute a "fishing privilege," not property, and to provide right of survivorship and other provisions for transfer of a permit upon the death of the permit holder in circumstances where holder of the vessel entry permit is a natural person, rather than an entity.*

**P. 10, lines 29-30, insert: "when necessary to accomplish the purposes of this chapter,"**

*Purpose: Recognizes that CFEC may or may not opt to utilize the vessel entry permit system authorized by this bill. If CFEC opts to not limit the two subject fisheries at all, or opts not to use this alternate program for either one, there would be no need to require the commission to "administer a vessel permit system."*

**P. 14, line 18, replace staggered effective dates with one immediate effective date for whole bill.**

*Purpose: The more elaborate effective date clauses were included in original bill because it provided "generic authority" and because, at the time of introduction, the moratoria in the scallop and hair crab fisheries were to expire soon. With the narrowed scope of bill, and the extensions made by the legislature to the two moratoria, the bill now needs only a simple immediate effective date for all sections of the bill.*

22-LS0426B  
Utermohle  
1/30/02

**2d CS FOR HOUSE BILL NO. 206(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the  
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to  
3 management of offshore fisheries, and to the definition of 'person' for purposes of the  
4 commercial fisheries entry program; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 FINDINGS. The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits  
10 the entry of natural persons into a fishery, may not adequately protect the economic health  
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery  
13 may be necessary to regulate certain fisheries in order to promote the conservation and  
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea  
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel  
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on  
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state  
7 management of fisheries that overlap with federally managed fisheries in the United States  
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve  
10 compatible state and federal management and enforcement of fisheries.

11 \* Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**  
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a  
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair  
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the  
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;  
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under  
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would  
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the  
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab  
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent  
29 with this chapter, adopt regulations to ensure that the vessel permit system is  
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the  
2 commission may limit, as the commission determines appropriate, the fishery  
3 resources that may be harvested under the vessel permit, the types of gear that may be  
4 used under the vessel permit, or the areas where fishing may occur under the vessel  
5 permit. The commission shall adopt criteria, as appropriate, for determining

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

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

11 (d) The commission may, after consultation with the Department of Fish and  
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use  
13 permit or a vessel entry permit if the commission finds that limitations on fishing  
14 capacity or effort are necessary to achieve the purposes of this chapter. The  
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or  
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or  
17 effort are established for individual vessel interim-use permits and vessel entry  
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel  
20 permits that may be held by a permit holder or group of related permit holders if the  
21 commission finds that limiting the number of vessel permits that may be held by a  
22 permit holder or group of related permit holders is necessary to prevent the excessive  
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in  
25 which the commission establishes a vessel permit system under AS 16.43.450, the  
26 commission shall establish qualifications for vessel interim-use permits and vessel  
27 entry permits. The qualifications may include a qualification date, eligibility period,  
28 recent participation requirements, minimum requirements for the nature and degree of  
29 ownership interest that a permit holder must have in a vessel in order to receive a  
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable  
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,  
3 participants in the fishery, owners of vessels and gear used in the fishery, and other  
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature  
6 of the fishery, and the need to ensure the manageability of the fishery and conservation  
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450  
9 for a fishery that is subject to a moratorium on entry of new vessels under  
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel  
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel  
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the  
14 commission has established a vessel permit system under AS 16.43.450, the  
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the  
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel  
17 interim-use permit is renewable from year to year; however, a vessel interim-use  
18 permit expires at the end of the period for which the permit was issued and may not be  
19 renewed after a final determination by the commission that the vessel is or is not  
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to  
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the  
23 owner of each vessel that the commission finds is eligible to receive a vessel entry  
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a  
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of  
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel  
30 interim-use permit or a vessel entry permit if the vessel or vessels used to establish  
31 eligibility for a vessel entry permit are lost, or are retired from the fishery by the vessel

1 owner, before the initial issuance of a vessel entry permit for the vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the  
3 initial issuance of vessel entry permits for a fishery, the commission determines that a  
4 long-term biological or economic change has occurred in the fishery, the commission,  
5 in consultation with the Department of Fish and Game, shall establish the optimum  
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the  
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of  
17 vessel entry permits for a fishery if the commission finds that an established long-term  
18 change in the biological or economic condition of the fishery has occurred and that the  
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of  
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the  
22 number of outstanding vessel permits for the fishery, the commission may adopt  
23 regulations to allow the voluntary consolidation of vessel entry permits by permit  
24 holders, including entities. The commission may investigate procedures to  
25 permanently reduce the number of vessel permits issued for a fishery to within the  
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the  
28 number of permits authorized for the fishery, the commission shall issue additional  
29 vessel entry permits until the number of vessel entry permits is consistent with the  
30 optimum number range for the fishery. The commission shall obtain fair market value  
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are  
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The  
4 commission may adopt regulations authorizing the transfer of a transferable vessel  
5 entry permit to an eligible transferee and establishing the terms and conditions under  
6 which vessel entry permits may be transferred. The commission may require that the  
7 transferee of a vessel entry permit must have a legal ownership interest in the vessel  
8 identified on the vessel entry permit. The commission may establish by regulation  
9 minimum requirements for the nature and degree of ownership interest that the  
10 transferee must have in the vessel.

11 (b) The commission may adopt regulations authorizing the simultaneous  
12 transfer of a transferable vessel entry permit to an eligible transferee and the  
13 substitution of another vessel for the vessel identified on the permit under  
14 AS 16.43.490.

15 (c) The commission shall adopt regulations relating to the expiration of  
16 nontransferable vessel entry permits.

17 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt  
18 regulations providing for the permanent or temporary substitution, after the initial  
19 issuance of vessel entry permits, of another vessel for the vessel that is identified on a  
20 vessel entry permit. The commission may specify by regulation the nature and degree  
21 of legal ownership interest that a permit holder must have in the vessel that is  
22 permanently or temporarily substituted for the vessel identified on the permit. Upon  
23 the approval of a permanent substitution of a vessel, the commission shall issue a new  
24 vessel entry permit for the substituted vessel.

25 (b) A substituted vessel and the operation of the substituted vessel are subject  
26 to all terms and conditions attached to the vessel entry permit at the time that the  
27 vessel permit is transferred from the original vessel to the substituted vessel.

28 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit  
29 or vessel entry permit is issued for one year and must be renewed annually.

30 (b) A vessel interim-use permit or vessel entry permit may not be renewed  
31 until the fees for each preceding year during which the permit has not been renewed

1 are paid.

2 (c) Failure to renew a vessel entry permit for two consecutive years from the  
3 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived  
4 by the commission for good cause. If an administrative closure of a fishery occurs for  
5 an entire season, the commission may not count the season toward the two-year  
6 period.

7 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees  
8 for the issuance and annual renewal of vessel interim-use permits and vessel entry  
9 permits. Annual fees established under this subsection may not exceed \$2,500 and  
10 shall reasonably reflect the rate of economic return for the fishery.

11 (b) The commission shall waive the payment of the annual fees for a vessel  
12 interim-use permit or a vessel entry permit for a fishery in which there was an  
13 administrative closure for the entire season.

14 (c) Subject to AS 37.10.050(a), the commission may establish fees for  
15 processing applications for vessel interim-use permits and vessel entry permits, for  
16 transfer of vessel entry permits, and for permanent and temporary substitution of  
17 vessels.

18 (d) The commission may charge interest at a rate not to exceed the legal rate  
19 of interest established in AS 45.45.010(a) on fees established under the section that are  
20 more than 60 days overdue.

21 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity  
22 may not operate a vessel or use a vessel to take fish in a commercial fishery for which  
23 a vessel interim-use permit or vessel entry permit is required unless the appropriate  
24 vessel permit has been issued for the vessel and is posted in a prominent location on  
25 the vessel.

26 (b) A person or entity may not hold more than one vessel entry permit for a  
27 fishery unless

28 (1) the number of vessel entry permits held by the person or entity is  
29 consistent with regulations of the commission regarding concentration of ownership of  
30 vessel permits in the fishery; and

31 (2) either

1 (A) the person or entity qualified for each vessel entry permit at  
2 the time of the initial issuance of vessel entry permits for the fishery; or

3 (B) the vessel entry permits are issued for a vessel for which  
4 the person or entity already holds another vessel entry permit for that fishery.

5 (c) The operator of a vessel for which a vessel interim-use permit or vessel  
6 entry permit has been issued shall comply with the terms of the vessel permit while the  
7 vessel is operated in the fishery for which the permit is issued.

8 (d) A vessel interim-use permit and a vessel entry permit constitute a use  
9 privilege that may be modified or revoked by order of the commission or by law  
10 without compensation.

11 (e) A vessel entry permit may not be

12 (1) pledged, mortgaged, leased, or encumbered in any way;

13 (2) transferred with any retained right of repossession or foreclosure,  
14 or on any condition requiring a subsequent transfer; or

15 (3) attached, distrained, or sold on execution of judgment or under any  
16 other process or order of any court.

17 (f) Unless the person who holds a vessel entry permit has expressed a contrary  
18 intent in a will that is probated, the commission shall, upon the death of the person,  
19 transfer the vessel entry permit by right of survivorship directly to the person's  
20 surviving spouse or, if no spouse survives, to another person designated by the vessel  
21 permit holder on a form provided by the commission. If no spouse survives and if the  
22 person designated on the form, if any, does not survive, the permit passes as part of the  
23 vessel permit holder's estate. A designation under this subsection must be  
24 acknowledged before a person authorized to administer an oath under AS 09.63.010 or  
25 must be witnessed by two persons who are qualified under AS 15.12.505 to witness  
26 the will of the vessel permit holder. A vessel entry permit is exempt from the claims of  
27 creditors of the estate.

28 (g) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use  
29 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -  
30 16.05.520.

31 (h) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of

1 Fisheries or the Department of Fish and Game.

2 (i) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
3 release to the owner of a vessel information on the vessel's history of harvests in a  
4 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit  
5 under AS 16.43.450 - 16.43.520.

6 \* Sec. 3. AS 16.05.735 is amended to read:

7 Sec. 16.05.735. Management of offshore fisheries. The state may assume  
8 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to  
9 the state in the absence of a federal fishery management plan for the fishery  
10 [SCALLOPS] or in the event that a federal fishery management plan for the fishery  
11 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP  
12 FISHERIES] in the United States exclusive economic zone.

13 \* Sec. 4. AS 16.43.010(a) is amended to read:

14 (a) It is the purpose of this chapter to promote the conservation and the  
15 sustained yield management of Alaska's fishery resource and the economic health and  
16 stability of commercial fishing in Alaska by regulating and controlling entry of  
17 participants and vessels into the commercial fisheries in the public interest and  
18 without unjust discrimination.

19 \* Sec. 5. AS 16.43.100(a) is amended to read:

20 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall  
21 (1) regulate entry into the commercial fisheries for all fishery resources  
22 in the state;  
23 (2) establish priorities for the application of the provisions of this  
24 chapter to the various commercial fisheries of the state;  
25 (3) establish administrative areas suitable for regulating and  
26 controlling entry into the commercial fisheries;  
27 (4) establish, for all types of gear, the maximum number of entry  
28 permits for each administrative area;  
29 (5) designate, when necessary to accomplish the purposes of this  
30 chapter, particular species for which separate interim-use permits or entry permits will  
31 be issued;

- 1 (6) establish qualifications for the issuance of entry permits;
- 2 (7) issue entry permits to qualified applicants;
- 3 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 4 and 16.43.225;
- 5 (9) establish, for all types of gear, the optimum number of entry
- 6 permits for each administrative area;
- 7 (10) administer the buy-back program provided for in AS 16.43.310
- 8 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 9 number of entry permits;
- 10 (11) provide for the transfer and reissuance of entry permits to
- 11 qualified transferees;
- 12 (12) provide for the transfer and reissuance of entry permits for
- 13 alternative types of legal gear, in a manner consistent with the purposes of this
- 14 chapter;
- 15 (13) establish and administer the collection of the annual fees provided
- 16 for in AS 16.43.160;
- 17 (14) administer the issuance of commercial fishing vessel licenses
- 18 under AS 16.05.490;
- 19 (15) issue educational entry permits to applicants who qualify under
- 20 the provisions of AS 16.43.340 - 16.43.390;
- 21 (16) establish reasonable user fees for services;
- 22 (17) issue landing permits under AS 16.05.675 and regulations adopted
- 23 under that section;
- 24 (18) establish and collect annual fees for the issuance of landing
- 25 permits that reasonably reflect the costs incurred in the administration and
- 26 enforcement of provisions of law related to landing permits; [AND]
- 27 (19) establish a moratorium on entry into commercial fisheries as
- 28 provided in AS 16.43.225; and
- 29 (20) administer, when necessary to accomplish the purposes of this
- 30 chapter, a vessel permit system under AS 16.43.450 - 16.43.520.

31 \* Sec. 6. AS 16.43.240(b) is amended to read:

1 (b) When the commission finds that a fishery, not designated as a distressed  
2 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has  
3 reached levels of participation that require the limitation of entry under AS 16.43.140  
4 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall  
5 establish the maximum number of entry permits for that fishery.

6 \* Sec. 7. AS 16.43.240(c) is amended to read:

7 (c) When the commission finds that a fishery subject to a moratorium under  
8 AS 16.43.225 has reached levels of participation that require the limitation of entry  
9 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the  
10 commission shall establish the maximum number of entry permits for that fishery.

11 \* Sec. 8. AS 16.43.960(a) is amended to read:

12 (a) The commission may revoke, suspend, or transfer all entry or interim-use  
13 permits, vessel entry permits, or vessel interim-use permits held by a person or  
14 entity who knowingly provides or assists in providing false information, or fails to  
15 correct false information provided to the commission for the purpose of obtaining a  
16 benefit for self or another, including the issuance, renewal, duplication, or transfer of  
17 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel  
18 interim-use permit. The commission may suspend, as appropriate, that person's or  
19 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or  
20 vessel interim-use permit for a period not to exceed three years, and may impose an  
21 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION  
22 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
23 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
24 knowingly provide or assist in providing false information, or fail to correct false  
25 information provided, to the commission for the purpose of obtaining a benefit.

26 \* Sec. 9. AS 16.43.970(a) is amended to read:

27 (a) A person who violates a provision of this chapter or a regulation adopted  
28 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
29 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
30 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
31 first conviction, and a fine of not more than \$10,000 for a second or third conviction.

1 Upon a first or second conviction under this subsection, the court may in its discretion  
2 also order the commission to suspend the commercial fishing privileges of the person  
3 or entity for a period of not more than three years and to revoke one or more or all  
4 commercial fishing permits held by the person or entity. Upon a third or subsequent  
5 conviction under this subsection, the person or entity is also subject to a loss of  
6 commercial fishing privileges as provided under (i) of this section. This subsection  
7 does not apply to violations of AS 16.43.140(a).

8 \* Sec. 10. AS 16.43.970(b) is amended to read:

9 (b) A person or entity who knowingly makes a false statement to the  
10 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
11 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
12 interim-use permit, or vessel entry permit, or a person who assists another by  
13 knowingly making a false statement to the commission for the purpose of obtaining a  
14 benefit for another, is guilty of the crime of unsworn falsification as set out in  
15 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
16 commercial fishing privileges and revocation of commercial fishing permits under (i)  
17 of this section.

18 \* Sec. 11. AS 16.43.970(d) is amended to read:

19 (d) If a permit holder is charged by the state with violating a provision of this  
20 chapter or a regulation adopted under this chapter, the holder may not transfer [,  
21 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any  
22 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the  
23 final adjudication or dismissal of the charges.

24 \* Sec. 12. AS 16.43.970(e) is amended to read:

25 (e) Notwithstanding any other provision of this section, an interim-use or entry  
26 permit or transferable vessel entry permit may not be transferred while under  
27 suspension, without the consent of the commission.

28 \* Sec. 13. AS 16.43.970(f) is amended to read:

29 (f) A commercial fishing entry permit revoked under this section that is  
30 pledged as security for a loan under AS 16.10.333, or 16.10.338, or AS 44.81.231  
31 shall be reassigned as provided in AS 16.10.337 or AS 44.81.250.

1 \* Sec. 14. AS 16.43.970(i) is amended to read:

2 (i) Upon the conviction of a person or entity for an offense described under  
3 (a), (b), or (g) of this section, the court shall immediately notify the commission of the  
4 conviction. The notice provided by the court shall be accompanied by an order  
5 suspending commercial fishing privileges and revoking commercial fishing permits  
6 under (a) of this section, as appropriate. The commission shall, upon receipt of

7 (1) an order from the court under (a) of this section, suspend the  
8 commercial fishing privileges of a person or entity for the period set by the court and  
9 revoke commercial fishing permits held by the person or entity as directed by the  
10 court;

11 (2) a notice from the court that a person or entity has been convicted  
12 of a third or subsequent violation of (a) of this section, suspend all commercial fishing  
13 privileges of the person or entity for a period of three years from the date of  
14 conviction and revoke all commercial fishing permits held by the person or entity;

15 (3) a notice from the court that a person or entity has been convicted  
16 of a violation described under (b) of this section, suspend all commercial fishing  
17 privileges of the person or entity for a period of three years from the date of  
18 conviction and revoke all commercial fishing permits held by the person or entity;

19 (4) a notice from the court that a person has been convicted of a  
20 violation described under (g)(1) of this section, suspend all commercial fishing  
21 privileges of the person for a period of one year from the date of conviction;

22 (5) a notice from the court that a person has been convicted of a  
23 violation described under (g)(2) of this section, suspend all commercial fishing  
24 privileges of the person for a period of two years from the date of conviction;

25 (6) a notice from the court that a person has been convicted of a  
26 violation described under (g)(3) of this section, suspend all commercial fishing  
27 privileges of the person for a period of five years from the date of conviction.

28 \* Sec. 15. AS 16.43.970(j)(1) is amended to read:

29 (1) "commercial fishing permit" means an entry permit, [OR] an  
30 interim-use permit, a vessel entry permit, or a vessel interim-use permit issued  
31 under this chapter;

1 \* Sec. 16. AS 16.43.980(a) is amended to read:

2 (a) The commission shall prepare an annual report and notify the legislature  
3 that it is available. The report must [SHALL] include but not be limited to the  
4 following:

5 (1) a progress report on the reduction of entry permits to optimum  
6 levels;

7 (2) recommendations for additional legislation relating to the  
8 regulation of entry of participants and vessels into Alaska commercial fisheries.

9 \* Sec. 17. AS 16.43.990(5) is amended to read:

10 (5) "person" means a natural person: "person" [AND] does not  
11 include a corporation, company, partnership, firm, association, organization, joint  
12 venture, [BUSINESS] trust, [OR] society, or other legal entity other than a natural  
13 person;

14 \* Sec. 18. AS 16.43.990 is amended by adding a new paragraph to read:

15 (10) "entity" means a corporation, company, partnership, firm,  
16 association, organization, joint venture, trust, society, or other legal entity other than a  
17 natural person.

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

# Bill History/Action Display



BILL: HB 206                      SHORT TITLE: VESSEL LIMITED ENTRY FOR COMM. FISHERIES  
 BILL VERSION:  
 SPONSOR(S): RESOURCES  
 CURRENT STATUS: (H) RES STATUS DATE: 01/23/02  
 HEARING: (H) RES Feb 08 1:00 PM CAPITOL 124

TITLE: "An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."




Jrn-Date	Jrn-Page	Action
03/22/01	<u>0691</u>	(H) READ THE FIRST TIME - REFERRALS
03/22/01	<u>0691</u>	(H) FSH, RES
04/03/01	<u>0826</u>	(H) FSH RPT 2DP 4NR
04/03/01	<u>0827</u>	(H) DP: SCALZI, WILSON; NR: DYSON,
04/03/01	<u>0827</u>	(H) COGHILL, KERTTULA, STEVENS
04/03/01	<u>0827</u>	(H) FN1: ZERO(DFG)
04/11/01	<u>0952</u>	(H) RES RPT CS(RES) NT 7DP 1NR
04/11/01	<u>0953</u>	(H) DP: FATE, MCGUIRE, GREEN, CHENAULT,
04/11/01	<u>0953</u>	(H) KERTTULA, STEVENS, SCALZI; NR: MASEK
04/11/01	<u>0953</u>	(H) FN1: ZERO(DFG)
04/11/01	<u>0953</u>	(H) REFERRED TO RULES
01/23/02	<u>2053</u>	(H) RETURNED TO RES COMMITTEE

Similar Subject Match or Exact Subject Match

FISH & GAME (FISH)

LIMITED ENTRY

PERMITS

VESSELS

Bill Root:



TO REPORT PROBLEMS WITH BASIS INQUIRY

LIVE KTOO STREAMS



Return to Basis Main Menu (22 Legislature)

Return to Legislature Home Page

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: 2d CSHB206(RES)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
Title Vessel Limited Entry for Commercial Fisheries BRU Comm Fish Entry Commission  
Component Comm Fish Entry Commission  
Sponsor Rep. Scalzi  
Requester House Resources Component No. 471

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Work Draft 22-LS04261B

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
Division Commercial Fisheries Entry Commission Date/Time 2/6/02 11:55 AM  
Approved by: Mary McDowell, Commissioner Date 02/06/2002  
Agency Commercial Fisheries Entry Commission



# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 206  
(H) Publish Date: 4/3/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: Vessel Limited Entry for Commercial Fisheries BRU: Comm Fish (Limited) Entry Comm  
Component: Comm Fish (Limited) Entry Comm  
Sponsor: House Resources  
Requester: House Fisheries Component Number: 471

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

No fiscal impact is anticipated.

Prepared by: Roger Kolden Phone 790-6950  
Division: Commercial Fisheries Entry Commission Date/Time 3/23/01 12:51 PM  
Approved by: Mary McDowell Date 03/23/2001  
Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

2.6.02

Sponsor and/or Committee Name			Date
House Resources			2.8.02
Start/End Time	Chairing site	Juneau Room	Testimony
1-3 pm	JNU	124	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Invitational <input type="checkbox"/>
Contact Person and	Phone Number	Other sites may add?	Testimony Limit
Pat Hartley	-6890 -4708	yes	
Subject of meeting and/or Bills on agenda			

HB - 206

may testify, but wants to be available to answer questions, if needed.

4-9-02  
ADDITION

Sites - LIOs	Sites - Offnets	Phone #
Anchorage	Kennie Hertzog	907.229.4986
Barrow	David Heel skand	
Bethel	Eugene BIKSICK	907.274.2248
Cordova		
Delta Junction		
Dillingham		
Fairbanks	✓ all three calling 888 FF	
Glennallen	from their meetings @	
Homer	Anchorage Helton =	
Juneau		
Kenai	call if any questions	
Ketchikan		
Kodiak		
Kotzebue		
Matsu		
Nome		
Petersburg		
Seward		
Sitka		
Tok		
Valdez		
Wrangell		

Notes

no sites yet but Anathan Wintner will call on off-net from phone # 206.369.0514

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 206  
(H) Publish Date: 4/3/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
Title: Vessel Limited Entry for Commercial Fisheries BRU: Comm Fish (Limited) Entry Comm  
Component: Comm Fish (Limited) Entry Comm  
Sponsor: House Resources  
Requester: House Fisheries Component Number: 471

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

No fiscal impact is anticipated.

Prepared by: Roger Kolden Phone 790-6950  
Division: Commercial Fisheries Entry Commission Date/Time 3/23/01 12:51 PM  
Approved by: Mary McDowell Date 03/23/2001  
Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: 2d CSHB206(RES)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
Title Vessel Limited Entry for Commercial Fisheries BRU Comm Fish Entry Commission  
Component Comm Fish Entry Commission  
Sponsor Rep. Scalzi  
Requester House Resources Component No. 471

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Work Draft 22-LS0426\B

No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
Division Commercial Fisheries Entry Commission Date/Time 2/6/02 11:55 AM  
Approved by: Mary McDowell, Commissioner Date 02/06/2002  
Agency Commercial Fisheries Entry Commission

## Proposed Second House Resources CS for HB 206 (Work Draft 22-LS0426\B)

The primary focus of the changes being proposed to the version of HB206 adopted by the House Resources committee in 2001 is removal of the so-called "second-generation" provision. The goal of that provision was to provide a mechanism whereby fisheries limited under the vessel-based limited entry system authorized by the bill, would, over time, evolve increasingly toward being 'owner-operator' in character. Alaska's current limited entry program is based on the owner-operator model, (which is characteristic of Alaska's salmon fisheries and most other state-managed fisheries), and is designed to perpetuate that character in fisheries after limitation. The second-generation provision was primarily included in the original HB206 because that bill provided generic authority to the Commercial Fisheries Entry Commission (CFEC) to use this new vessel-based limited entry system in any fisheries in the future that met criteria specified in the bill.

After considerable deliberation, the House Resources Committee amended HB206 just before moving it from committee to narrow the scope of the bill to authorize the use of the vessel-based program ONLY for limitation of the scallop and Korean Hair Crab fisheries. The committee substitute version of the bill removed authority for the commission to use the vessel-based program to limit any other fisheries. The scallop and hair crab fisheries are not currently owner-operator in nature. Applying the "second-generation" criteria to permit transfers in these fisheries would be cumbersome, at best. Vessel owners in these fisheries have raised concern about impacts of the provision and asked that it be removed, now that the bill pertains only to these 2 fisheries.

The proposed Second Resources CS (Work Draft 22-LS0426\B) is substantially the same as the first Resources CS as the program authorized is virtually the same and the draft bill still authorizes the use of the vessel-based limitation program only for the scallop and hair crab fisheries. The primary focus of the revisions proposed in the draft is removal of the second-generation provision. Thus, if one or both of these two fisheries were to be limited under this program, a holder of a vessel entry permit would not be restricted to transferring the permit only to an individual human being, but would be able to transfer the permit to a partnership, company, or other "entity." Over time, ownership patterns in the fishery would likely stay very similar to what they are today.

Most other revisions proposed in the draft second CS are simply changes needed to make other provisions of the bill consistent with the removal of the second-generation provision or to provide clarity. The comparison on the following two pages explains each change proposed in the work draft.

Work Draft 22-LS0426\B makes the following changes to CSHB206(RES):

**P.4, line 30, after “vessel,” insert: “or vessels”**

*Purpose of change: Acknowledges that participation using more than one vessel may be counted toward eligibility for a vessel permit.*

**P.4, line 31, change “is” or “are” and insert after “lost,”: “or are retired from the fishery by the vessel owner,”**

*Purpose: Allows flexibility in situations where a vessel leaves the fishery due to a decision of the owner to retire the vessel from the fishery, rather than to the sinking of the vessel.*

**P.6, line 5, insert “and establishing the terms and conditions under which vessel entry permits may be transferred. The commission may require that”**

*Purpose: Makes clear that commission has authority to set requirements such as having permit transfer paperwork come through the commission, just as all transfers of limited entry permits must do now, and to require information about ownership of the entity to which a permit is being transferred. This is necessary to ensure compliance with provisions such as those aimed at preventing excessive concentration of ownership.*

*Adding “commission may require that,” would allow flexibility for vessel permit holders to lease, rather than own a vessel in the future. This may help make it possible for those who can’t afford to purchase both a permit and a vessel to enter the fishery.*

**P. 6, after line 10 – delete the ‘second-generation’ language that in HB 206 and in CSHB206(RES) (p.6, lines 9-28 of CS) prohibited the transfer of vessel permits to ‘entities’ (anything other than one human being).**

*Purpose: See explanation on previous page.*

**P. 6, delete provision that commission may prohibit involuntary transfers (p.7, line 2-3 of Res CS)**

*Purpose: Issue is covered more thoroughly in new provisions on p. 8 of draft bill.*

**P. 6, lines 20-22: sentences combined and reworded (for clarity), and added “may” in line 20.**

*Purpose of adding “may”: Provides flexibility to allow permit holders to use a leased vessel, partner with someone else who owns the vessel, or participate in some other arrangement besides owning both the permit and part or all of the vessel to be used.*

**Deleted lines 24-25 of p.7 of Res CS.**

*Purpose: To be consistent with removal of second generation provision.*

**Deleted p.8, lines 18-21 of Res CS.**

*Purpose: To be consistent with removal of second-generation language as future permit holders can be entities, rather than persons, so can't require to that vessel owner be on board.*

**P. 8, inserted lines 11-27**

*Purpose: Added language that mirrors provisions in current limited entry statute to make it clear that vessel entry permits, like limited entry permits, constitute a "fishing privilege," not property, and to provide right of survivorship and other provisions for transfer of a permit upon the death of the permit holder in circumstances where holder of the vessel entry permit is a natural person, rather than an entity.*

**P. 10, lines 29-30, insert: "when necessary to accomplish the purposes of this chapter,"**

*Purpose: Recognizes that CFEC may or may not opt to utilize the vessel entry permit system authorized by this bill. If CFEC opts to not limit the two subject fisheries at all, or opts not to use this alternate program for either one, there would be no need to require the commission to "administer a vessel permit system."*

**P. 14, line 18, replace staggered effective dates with one immediate effective date for whole bill.**

*Purpose: The more elaborate effective date clauses were included in original bill because it provided "generic authority" and because, at the time of introduction, the moratoria in the scallop and hair crab fisheries were to expire soon. With the narrowed scope of bill, and the extensions made by the legislature to the two moratoria, the bill now needs only a simple immediate effective date for all sections of the bill.*



# Alaska State Legislature

*1 OPPOSE*

Please enter into the record my testimony to the House Resource Committee  
committee name

committee on HB 206, dated 4/9/01  
bill/subject

*I am opposed to House Bill 206 - vessel limited entry. This would be a major policy shift for the state of Alaska. This has not had broad public scrutiny or debate. The Canadians are having a lot of social problems with vessel limited entry. If it is intended to be temporary then there are other ways, such as vessel moratorium extension. To deal with the issue while preserving state policy to have operator-based harvesting rights.*

Signed: Oliver N Holm chicken@gci.net  
Testifier

Representing (Optional)

PO Box 3865 Kodiak 99615

Address

907-486-6957

Phone No.

22-LS0426L  
Utermohle  
4/9/01

**CS FOR HOUSE BILL NO. 206( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RESOURCES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to a vessel-based commercial fisheries limited entry system for the  
2 Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to  
3 management of offshore fisheries, and to the definition of 'person' for purposes of the  
4 commercial fisheries entry program; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 **FINDINGS.** The legislature finds that

9 (1) the conventional commercial fisheries limited entry system, which limits  
10 the entry of natural persons into a fishery, may not adequately protect the economic health  
11 and stability of certain fisheries in this state;

12 (2) a system that limits the number of vessels that may engage in a fishery  
13 may be necessary to regulate certain fisheries in order to promote the conservation and  
14 sustained yield management of Alaska's fishery resource and the economic health and

1 stability of commercial fishing in this state;

2 (3) the existing moratorium on entry of new vessels into the Bering Sea  
3 Korean hair crab fishery (AS 16.43.901) expires on June 30, 2003, and the existing vessel  
4 moratorium for the weathervane scallop fisheries in state waters (AS 16.43.906) expires on  
5 June 30, 2004;

6 (4) a vessel-based limited entry system may be necessary to facilitate state  
7 management of fisheries that overlap with federally managed fisheries in the United States  
8 exclusive economic zone; and

9 (5) a vessel-based limited entry system may be necessary to achieve  
10 compatible state and federal management and enforcement of fisheries.

11 \* Sec. 2. AS 16.43 is amended by adding new sections to read:

12 **Article 6A. Vessel Permit System for Bering Sea Korean Hair Crab Fishery**  
13 **and Weathervane Scallop Fisheries.**

14 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a  
15 vessel permit system under AS 16.43.450 - 16.43.520 for the Bering Sea Korean hair  
16 crab fishery or a weathervane scallop fishery if the commission determines that

17 (1) the regulation of entry into the fishery is necessary to achieve the  
18 purposes of this chapter;

19 (2) a vessel permit system would achieve the purposes of this chapter;  
20 and

21 (3) either

22 (A) limiting the number of participants in the fishery under  
23 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter; or

24 (B) regulating the number of vessels in the fishery would  
25 enable the state to gain or retain management of the fishery.

26 (b) If the federal government has delegated management authority in the  
27 United States exclusive economic zone to the state for the Bering Sea Korean hair crab  
28 fishery or a weathervane scallop fishery, the commission may, to the extent consistent  
29 with this chapter, adopt regulations to ensure that the vessel permit system is  
30 consistent with applicable federal laws.

31 (c) If the commission establishes a vessel permit system for a fishery that

1 involves more than one fishery resource, type of gear, or administrative area, the  
2 commission may limit, as the commission determines appropriate, the fishery  
3 resources that may be harvested under the vessel permit, the types of gear that may be  
4 used under the vessel permit, or the areas where fishing may occur under the vessel  
5 permit. The commission shall adopt criteria, as appropriate, for determining

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

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

11 (d) The commission may, after consultation with the Department of Fish and  
12 Game, regulate the fishing capacity or effort authorized under a vessel interim-use  
13 permit or a vessel entry permit if the commission finds that limitations on fishing  
14 capacity or effort are necessary to achieve the purposes of this chapter. The  
15 commission shall adopt criteria, as appropriate, for measuring the fishing capacity or  
16 effort of a vessel and for determining how restrictions on vessel fishing capacity or  
17 effort are established for individual vessel interim-use permits and vessel entry  
18 permits. The criteria may be based on past participation.

19 (e) The commission shall adopt regulations limiting the number of vessel  
20 permits that may be held by a permit holder or group of related permit holders if the  
21 commission finds that limiting the number of vessel permits that may be held by a  
22 permit holder or group of related permit holders is necessary to prevent the excessive  
23 concentration of ownership of vessel permits in the fishery.

24 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in  
25 which the commission establishes a vessel permit system under AS 16.43.450, the  
26 commission shall establish qualifications for vessel interim-use permits and vessel  
27 entry permits. The qualifications may include a qualification date, eligibility period,  
28 recent participation requirements, minimum requirements for the nature and degree of  
29 ownership interest that a permit holder must have in a vessel in order to receive a  
30 vessel permit for the vessel, and criteria for receiving transferable and nontransferable  
31 vessel entry permits. In adopting qualifications for transferable and nontransferable

1 vessel entry permits, the commission shall consider

2 (1) information provided by the Department of Fish and Game,  
3 participants in the fishery, owners of vessels and gear used in the fishery, and other  
4 interested parties;

5 (2) the level of past participation and harvest in the fishery, the nature  
6 of the fishery, and the need to ensure the manageability of the fishery and conservation  
7 of the fishery resource.

8 (b) If the commission establishes a vessel permit system under AS 16.43.450  
9 for a fishery that is subject to a moratorium on entry of new vessels under  
10 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel  
11 eligibility criteria established for the moratorium into the eligibility criteria for vessel  
12 permits issued under the vessel permit system.

13 (c) Pending the issuance of vessel entry permits for a fishery for which the  
14 commission has established a vessel permit system under AS 16.43.450, the  
15 commission shall issue a vessel interim-use permit to the owner of each vessel that the  
16 commission finds is potentially eligible to receive a vessel entry permit. A vessel  
17 interim-use permit is renewable from year to year; however, a vessel interim-use  
18 permit expires at the end of the period for which the permit was issued and may not be  
19 renewed after a final determination by the commission that the vessel is or is not  
20 eligible for a vessel entry permit.

21 (d) The commission shall issue vessel entry permits for a fishery, subject to  
22 conditions established by the commission under AS 16.43.450 - 16.43.520, to the  
23 owner of each vessel that the commission finds is eligible to receive a vessel entry  
24 permit for that fishery.

25 (e) The commission shall adopt regulations regarding

26 (1) the determination of which person or entity is eligible to receive a  
27 vessel interim-use permit or a vessel entry permit for a vessel in the event of  
28 competing claims to ownership of the vessel;

29 (2) the substitution of another vessel by the applicant for a vessel  
30 interim-use permit or a vessel entry permit if the vessel used to establish eligibility for  
31 a vessel entry permit is lost before the initial issuance of a vessel entry permit for the

1 vessel.

2 **Sec. 16.43.470. Optimum number range of vessel permits.** (a) If, after the  
3 initial issuance of vessel entry permits for a fishery, the commission determines that a  
4 long-term biological or economic change has occurred in the fishery, the commission,  
5 in consultation with the Department of Fish and Game, shall establish the optimum  
6 number range of vessel entry permits for the fishery.

7 (b) In determining the optimum number range of vessel entry permits, the  
8 commission shall seek to

9 (1) facilitate sound management of the fishery;

10 (2) promote

11 (A) the economic health and stability of the fishery;

12 (B) broad access to the fishery;

13 (C) conservation of the fish resources taken in the fishery;

14 (D) quality seafood products; and

15 (3) discourage waste of harvested fish.

16 (c) The commission may increase or decrease the optimum number range of  
17 vessel entry permits for a fishery if the commission finds that an established long-term  
18 change in the biological or economic condition of the fishery has occurred and that the  
19 number of vessel entry permits that are necessary to achieve the goals set out in (b) of  
20 this section has substantially changed.

21 (d) If the optimum number range of vessel entry permits is less than the  
22 number of outstanding vessel permits for the fishery, the commission may adopt  
23 regulations to allow the voluntary consolidation of vessel entry permits by permit  
24 holders, including entities. The commission may investigate procedures to  
25 permanently reduce the number of vessel permits issued for a fishery to within the  
26 optimum number range.

27 (e) If the optimum number range of vessel entry permits is greater than the  
28 number of permits authorized for the fishery, the commission shall issue additional  
29 vessel entry permits until the number of vessel entry permits is consistent with the  
30 optimum number range for the fishery. The commission shall obtain fair market value  
31 for new vessel entry permits issued under this subsection. The commission shall

1 determine whether the additional vessel entry permits issued under this subsection are  
2 transferable or nontransferable.

3 **Sec. 16.43.480. Transfer and expiration of vessel entry permits.** (a) The  
4 commission may adopt regulations authorizing the transfer of a transferable vessel  
5 entry permit to an eligible transferee. The transferee of a vessel entry permit must  
6 have a legal ownership interest in the vessel identified on the vessel entry permit. The  
7 commission may establish by regulation the minimum requirements for the nature and  
8 degree of ownership interest that the transferee must have in the vessel.

9 (b) Except as provided under (c) of this section, a person or entity that  
10 received a transferable vessel entry permit upon the initial issuance of vessel entry  
11 permits for a fishery may not transfer the permit to another entity. For purposes of this  
12 subsection, a transfer to an entity includes a change in the entity to which the permit  
13 was issued. Except for a publicly held corporation, the addition of a new shareholder  
14 or partner to the entity, other than a trustee appointed by a court to act on behalf of a  
15 shareholder or partner who becomes incapacitated, constitutes a change in the entity.  
16 A transfer of a vessel entry permit in violation of this subsection suspends the permit  
17 by operation of law until the permit is transferred to a person or back to the original  
18 entity and the transfer is approved by the commission.

19 (c) Notwithstanding (b) of this section, the commission may authorize a  
20 transferable vessel entry permit for a fishery to be transferred by a person or entity to  
21 an entity if

22 (1) the entity to which the permit is to be transferred received a vessel  
23 entry permit for the fishery at the time of initial issuance of vessel entry permits for  
24 the fishery;

25 (2) the vessel entry permit is to be issued for a vessel for which the  
26 entity receiving the permit already holds a vessel entry permit for the fishery; and

27 (3) the transfer of the vessel entry permit is consistent with  
28 AS 16.43.520(b).

29 (d) The commission may adopt regulations authorizing the simultaneous  
30 transfer of a transferable vessel entry permit to an eligible transferee and the  
31 substitution of another vessel for the vessel identified on the permit under

1 AS 16.43.490.

2 (e) The commission may prohibit the involuntary transfer of a vessel entry  
3 permit.

4 (f) The commission shall adopt regulations relating to the expiration of  
5 nontransferable vessel entry permits.

6 **Sec. 16.43.490. Substitution of vessels.** (a) The commission may adopt  
7 regulations providing for the permanent or temporary substitution, after the initial  
8 issuance of vessel entry permits, of another vessel for the vessel that is identified on a  
9 vessel entry permit. A permit holder must have a legal ownership interest in the vessel  
10 that is permanently substituted for the vessel identified on the permit. Upon the  
11 approval of a permanent substitution of a vessel, the commission shall issue a new  
12 vessel entry permit for the substituted vessel. The commission may require that the  
13 permit holder have an ownership interest in a temporarily substituted vessel. The  
14 commission may specify by regulation the nature and degree of ownership interest that  
15 a permit holder must have in a substituted vessel.

16 (b) A substituted vessel and the operation of the substituted vessel are subject  
17 to all terms and conditions attached to the vessel entry permit at the time that the  
18 vessel permit is transferred from the original vessel to the substituted vessel.

19 **Sec. 16.43.500. Renewal of vessel permits.** (a) A vessel interim-use permit  
20 or vessel entry permit is issued for one year and must be renewed annually.

21 (b) A vessel interim-use permit or vessel entry permit may not be renewed  
22 until the fees for each preceding year during which the permit has not been renewed  
23 are paid.

24 (c) A vessel entry permit issued to an entity may not be renewed if the permit  
25 is suspended by operation of law under AS 16.43.480(b).

26 (d) Failure to renew a vessel entry permit for two consecutive years from the  
27 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived  
28 by the commission for good cause. If an administrative closure of a fishery occurs for  
29 an entire season, the commission may not count the season toward the two-year  
30 period.

31 **Sec. 16.43.510. Vessel permit fees.** (a) The commission shall establish fees

1 for the issuance and annual renewal of vessel interim-use permits and vessel entry  
2 permits. Annual fees established under this subsection may not exceed \$2,500 and  
3 shall reasonably reflect the rate of economic return for the fishery.

4 (b) The commission shall waive the payment of the annual fees for a vessel  
5 interim-use permit or a vessel entry permit for a fishery in which there was an  
6 administrative closure for the entire season.

7 (c) Subject to AS 37.10.050(a), the commission may establish fees for  
8 processing applications for vessel interim-use permits and vessel entry permits, for  
9 transfer of vessel entry permits, and for permanent and temporary substitution of  
10 vessels.

11 (d) The commission may charge interest at a rate not to exceed the legal rate  
12 of interest established in AS 45.45.010(a) on fees established under the section that are  
13 more than 60 days overdue.

14 **Sec. 16.43.520. General vessel permit provisions.** (a) A person or entity  
15 may not operate a vessel or use a vessel to take fish in a commercial fishery for which  
16 a vessel interim-use permit or vessel entry permit is required unless the appropriate  
17 vessel permit has been issued for the vessel and is posted in a prominent location on  
18 the vessel. A vessel entry permit holder, other than an entity or a person who received  
19 the permit at the time of initial issuance of vessel entry permits for the fishery, shall be  
20 physically present on the vessel while the vessel is engaged in the fishery for which  
21 the vessel entry permit was issued.

22 (b) A person or entity may not hold more than one vessel entry permit for a  
23 fishery unless

24 (1) the number of vessel entry permits held by the person or entity is  
25 consistent with regulations of the commission regarding concentration of ownership of  
26 vessel permits in the fishery; and

27 (2) either

28 (A) the person or entity qualified for each vessel entry permit at  
29 the time of the initial issuance of vessel entry permits for the fishery; or

30 (B) the vessel entry permits are issued for a vessel for which  
31 the person or entity already holds another vessel entry permit for that fishery.

1 (c) The operator of a vessel for which a vessel interim-use permit or vessel  
2 entry permit has been issued shall comply with the terms of the vessel permit while the  
3 vessel is operated in the fishery for which the permit is issued.

4 (d) A vessel interim-use permit and a vessel entry permit constitute a use  
5 privilege that may be modified or revoked by order of the commission or by law  
6 without compensation.

7 (e) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use  
8 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -  
9 16.05.520.

10 (f) Nothing in AS 16.43.450 - 16.43.520 limits the powers of the Board of  
11 Fisheries or the Department of Fish and Game.

12 (g) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may  
13 release to the owner of a vessel information on the vessel's history of harvests in a  
14 fishery that is necessary to apply for a vessel interim-use permit or vessel entry permit  
15 under AS 16.43.450 - 16.43.520.

16 \* Sec. 3. AS 16.05.735 is amended to read:

17 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume  
18 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to  
19 the state in the absence of a federal fishery management plan for the fishery  
20 [SCALLOPS] or in the event that a federal fishery management plan for the fishery  
21 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP  
22 FISHERIES] in the United States exclusive economic zone.

23 \* Sec. 4. AS 16.43.010(a) is amended to read:

24 (a) It is the purpose of this chapter to promote the conservation and the  
25 sustained yield management of Alaska's fishery resource and the economic health and  
26 stability of commercial fishing in Alaska by regulating and controlling entry of  
27 participants and vessels into the commercial fisheries in the public interest and  
28 without unjust discrimination.

29 \* Sec. 5. AS 16.43.100(a) is amended to read:

30 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall  
31 (1) regulate entry into the commercial fisheries for all fishery resources

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in the state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

(9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) administer the collection of the annual fees provided for in AS 16.43.160;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 - 16.43.390;

(16) establish reasonable user fees for services;

1 (17) issue landing permits under AS 16.05.675 and regulations adopted  
2 under that section;

3 (18) establish and collect annual fees for the issuance of landing  
4 permits that reasonably reflect the costs incurred in the administration and  
5 enforcement of provisions of law related to landing permits; [AND]

6 (19) establish a moratorium on entry into commercial fisheries as  
7 provided in AS 16.43.225; and

8 (20) administer the vessel permit system authorized for the Bering  
9 Sea Korean hair crab fishery and for weathervane scallop fisheries under  
10 AS 16.43.450 - 16.43.520.

11 \* Sec. 6. AS 16.43.240(b) is amended to read:

12 (b) When the commission finds that a fishery, not designated as a distressed  
13 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has  
14 reached levels of participation that require the limitation of entry under AS 16.43.140  
15 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall  
16 establish the maximum number of entry permits for that fishery.

17 \* Sec. 7. AS 16.43.240(c) is amended to read:

18 (c) When the commission finds that a fishery subject to a moratorium under  
19 AS 16.43.225 has reached levels of participation that require the limitation of entry  
20 under AS 16.43.140 - 16.43.330 in order to achieve the purposes of this chapter, the  
21 commission shall establish the maximum number of entry permits for that fishery.

22 \* Sec. 8. AS 16.43.960(a) is amended to read:

23 (a) The commission may revoke, suspend, or transfer all entry or interim-use  
24 permits, vessel entry permits, or vessel interim-use permits held by a person or  
25 entity who knowingly provides or assists in providing false information, or fails to  
26 correct false information provided to the commission for the purpose of obtaining a  
27 benefit for self or another, including the issuance, renewal, duplication, or transfer of  
28 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel  
29 interim-use permit. The commission may suspend, as appropriate, that person's or  
30 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or  
31 vessel interim-use permit for a period not to exceed three years, and may impose an