

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 80/2

10381 HOUSE RESOURCES

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1 administrative fine of not more than \$5,000 on the person or [ THE COMMISSION  
2 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
3 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
4 knowingly provide or assist in providing false information, or fail to correct false  
5 information provided, to the commission for the purpose of obtaining a benefit.

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

7 (a) A person who violates a provision of this chapter or a regulation adopted  
8 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
9 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
10 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
11 first conviction, and a fine of not more than \$10,000 for a second or third conviction.  
12 Upon a first or second conviction under this subsection, the court may in its discretion  
13 also order the commission to suspend the commercial fishing privileges of the person  
14 or entity for a period of not more than three years and to revoke one or more or all  
15 commercial fishing permits held by the person or entity. Upon a third or subsequent  
16 conviction under this subsection, the person or entity is also subject to a loss of  
17 commercial fishing privileges as provided under (i) of this section. This subsection  
18 does not apply to violations of AS 16.43.140(a).

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

20 (b) A person or entity who knowingly makes a false statement to the  
21 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
22 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
23 interim-use permit, or vessel entry permit, or a person who assists another by  
24 knowingly making a false statement to the commission for the purpose of obtaining a  
25 benefit for another, is guilty of the crime of unsworn falsification as set out in  
26 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
27 commercial fishing privileges and revocation of commercial fishing permits under (i)  
28 of this section.

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

30 (d) If a permit holder is charged by the state with violating a provision of this  
31 chapter or a regulation adopted under this chapter, the holder may not transfer [,

1 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any  
2 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the  
3 final adjudication or dismissal of the charges.

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

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

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

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

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

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

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

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

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

30 (4) a notice from the court that a person has been convicted of a  
31 violation described under (g)(1) of this section, suspend all commercial fishing

1 privileges of the person for a period of one year from the date of conviction;

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

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

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

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

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

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

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

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

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

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

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

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

29 \* Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt

1 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds  
2 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

3 \* **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

4 \* **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

**Kozak & Associates, Inc.**  
P. O. Box 2684 - Kodiak, Alaska 99615  
PHONE 907-486-8824 - FAX 907-486-6963  
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April 9, 2001

Honorable Drew Scalzi, Co-Chair House Resources Committee  
Alaska State Legislature  
Juneau, Alaska 99801

Honorable Beverly Masek, Co-Chair House Resources Committee  
Alaska State Legislature  
Juneau, Alaska 99801

RE: House Bill 206

Representatives Scalzi and Masek:

I have had the opportunity to review HB 206 and would like to express support on behalf of my Alaskan clients for this legislation. The vessel owners I represent fish with either pot or longline gear in the Gulf of Alaska and Bering Sea/Aleutian Islands. They are license holders in the federal fisheries.

We are supporting the legislation for several reasons. The obvious reason is the current situation with the Korean hair crab and scallop moratorium, and this issue needs to be resolved. The answer is to allow for CFEC to limit the entry into those fisheries with a license program for vessel owners.

There is another reason why this bill is desperately needed as well. As you are aware, all of the crab and groundfish fisheries under federal management in Alaska are in some form of restricted access. The groundfish and Bering Sea crab fisheries are currently operating under a form of license limitation that is granted to the vessel owner. However, the federal license program does not extend into state waters. Therefore, vessels operating without a license can freely move into state waters when the federal groundfish fishery is open and displace those who have traditionally fished in waters near their community. I'm speaking primarily of large crab vessels, many of which are owned by residents of other states, who are looking for other fishery opportunities in the lean crab years. Many of these vessels do not have groundfish licenses to fish for Pacific cod and they are moving into near-shore areas where a license isn't needed and blanketing the area with pots. This causes havoc to the local fleet, as well as potential concerns with localized depletion. In light of management considerations for the Steller sea lion situation, this may cause near-shore areas to simply be closed to all fishing.

HB 206 Comments  
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Page Two

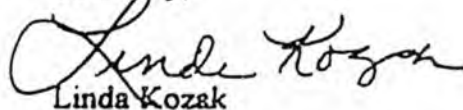
It must be reiterated that currently the State of Alaska has no way to even begin regulating these vessels, as the operations are conducted very differently than state managed fisheries. They are not fished primarily with the owner on board and skippers frequently change.

In order to begin to address this very serious issue, the Commercial Fisheries Entry Commission must have the tools in order to respond to the growing need for controls inside state waters for groundfish. The current CFEC limited entry authority just doesn't provide them with the ability to address a limited entry program similar to the federal system currently in place.

The proposed legislation provides ample protection for transfers of such licenses to be subsequently held by an individual. The fears that "corporate America" will take over the fishery are not only unfounded, they are uninformed and ridiculous.

Thank you for reviewing my comments.

Sincerely,



Linda Kozak

CC: Representative Gary Stevens

House Resources  
Drew Scalzi and Beverly Masek, co-chair

Fax via 907 465-3472 3 pages plus 2 pages of tables

Re: HB 206

Follow up on testimony from your 4/3/01 hearing and testimony for 4/9/01 hearing. I wish to point out that although I oppose the bill, I have made several comments for changes that should be incorporated in case it does pass. This is not inconsistent testimony as was mentioned by the CFEC, but rather two tracks depending on the action of the committee.

There seems to be the FALSE impression within the committee that Alaska needs to have a vessel owner based limited entry system for federal waters in order to maintain management over these FEDERAL FISHERIES. That is not true. The State manages the entire Bering Sea King, Tanner, and Opilio crab fisheries for the feds without such a system. The State also manages the sablefish and cod fisheries in State 0-3 mile waters under different principles than the federal government managing the same fisheries 3-200 miles. These are prime examples of the State fishery management empowering fishermen and providing for much economic activity to local coastal communities that would have disappeared if the large vessel owners that harvest most of the federal quota could have gotten the State to 'mirror' the federal vessel owner programs and give all the fishing rights to them. The history of State fishery management shows that FINDINGS four and five are simply speculative propositions but really are NOT NECESSARY.

My chief concerns with the bill are its future impacts on limited entry in fisheries other than scallops and Korean Hair Crab. The testimony by proponents of this bill at the 4/3 hearing was that the scallop fleet was now 'taken care of' under the federal program that went into place after the original attempt to change the State Limited Entry program in 1996. I researched with the NPFMC and found out the crab testifiers were correct, and I was mistaken, in that any vessel could participate in the Hair crab fishery without having the federal Bering Sea crab LLP [federal limited permit]. I do not know why those corporate fishermen did not go through the same process as the scallop fishermen to get federal resolution by including Hair Crab as an LLP species with a specie endorsement. Why should the State now 'need' to change its laws because these vessel owners did not go through the available NPFMC process?

However, you did hear Hair Crab license holder, Mr. John Winters, testify that he thinks this program would be good for the State waters Pacific cod fishery. \*\*\*So please recognize that proponents believe this vessel owner / corporate model should be used in other State limited entry plans and not limited to the Korean Hair Crab fishery. \*\*\*

Putting this "option" or "tool" in CFEC's hands might not lead to immediate use for other fisheries because of the philosophy of the current CFEC commissioners. However, commissioners change, especially if political pressure is applied by the wealthiest members of the fishing industry -- the vessel owners - to get appointments of future

commissioners who agree with their point of view [permits should be granted based only on vessel ownership]. The last thing we need is to foster dissention within our communities and pit owners against captains who are (were) often friends.

\*\*\* I talked with ADF&G and found that very little of the deep dwelling, Korean Hair Crab exist in the 0-3 mile State waters. Therefore, the only specie this bill is predicated upon is not a significant State fishery. In fact, the moratorium on new entrants is not complete by statute and regulation. All of the State waters are open to new entrants, although maybe only to vessels under 58 feet. The moratorium on licenses only applies to waters beyond 5 miles from shore. Therefore, the existing management recognizes a dual track for inside and outside waters [unlicensed and licensed vessels]. It appears this vessel owner system would eliminate the current small vessel crab fishery allowed within State waters managed under a guideline harvest [just like sablefish]. Does the legislature have a problem with providing some near shore harvest for local boats instead of giving all access to the large offshore fleet owners?

Improvements to HB 206, if you proceed with this bill:

I have pondered the real reason these fishermen would be pressing so hard for a change to State law for this little fishery. I have now learned that they plan to form a co-op to harvest the crab so want a closed class of vessels like in the American Fisheries Act. In fact, a co-op would let the approximately 24 licensed vessels designate 3 or 4 vessels to do all the fishing, cut out the majority of the crew, and have the corporate vessel owners split all the proceeds. This would 'free up' the 20 other large vessels to concentrate in other fisheries - further overcapitalizing and impacting those other fisheries. There are no "sideboards" under this plan to constrain these vessels from moving into the fully utilized Gulf of Alaska fisheries or other Bering Sea Aleutian Island fisheries. The American Fisheries Act for pollock at least had "sideboards" specifically incorporated to prevent those 'freed up' vessels from crowding other fisheries while their huddies harvested their vessels' "shares" of pollock. However, these % of harvest sideboards have proven ineffective \*\*\* So, if you do approve this bill, please mandate that vessels named on these special First Generation Vessel Limited Entry Permits could not participate in any other state managed fishery while the fishing season is open for their permit specific fishery. \*\*\* NEW SECTION NEEDED

Section 16.43.480

This bill attempts to use 'change of ownership of a permitted vessel' as the only criterion to trigger the second-generation transfer to a "person". The ownership, especially of corporation owned vessels, is very difficult to trace and even the National Marine Fisheries Service is having severe problems with tracking true ownership transfers within its programs. The rationale for the "vessel based" system was to provide stability for current operations, and a phase in time. A 'current operation' really ends with change of ownership OR substitution of another vessel. Either of these events should trigger the 'natural person permit holder on board' transfer provision. Anytime a vessel is substituted the operation has significantly changed. Again, if the goal of the issuing First Generation permits was to allow for current operations, this should be no problem. This

also assures the State with some certainty that permits will change in the future to the State's fisherman based system when the current operation boats are lost, retired or sold.  
\*\*\* ELLIMINATE ALL SUBSTITUTION; Sec. 16.43.480 (d) and Sec. 16.43.490 \*\*\*

\*\*\* The Federal moratorium and LLP allowed a 20% length extension of the vessel within the license. CFEC testified that they could limit growth to "class" of vessel but that is a very broad range, generally under 60 feet, 60 to 125 feet and above 125 feet. I see nothing in this bill requires that CFEC to limit the growth of individual vessels or limit the expansion capacity of substituted vessels. Again, the rationale for this bill has been to allow continuation of current operation [a current operation changes by expanding capacity of the named vessel]. \*\*\*ADD SECTION MANDATING NO VESSEL LENGTH OR CAPACITY INCREASE WITHOUT TRIGGER OF 2<sup>ND</sup> GENERATION PERMIT TRANSFER PROVISION. \*\*\*

Finally, I want to be sure the committee is informed on the character of this Hair Crab fishery. I am faxing two pages of the catches and participation in this fishery from the ADF&G report. You will note that there were zero (0) landings in 1988, 1989, and 1990. It then climbed to 21 boats and about 1.5 million pounds in 1995. Since then it has steadily declined so that by 1999 there were only 8 boats participating with a total of 140,000 pounds of crab delivered. Last year the main fishing area around the Fribilof Islands was completely closed because of low stock abundance. Three vessels went to the open Northern District, but together delivered only 1,500 pounds [yes, that is one thousand five hundred pounds]. Biologists do not expect this fishery to be open in the next couple of years because they are seeing no significant recruitment. By the time the fishery becomes significant again, all the current vessel owner corporations may be completely out of this business. Why should you change State law to set up a system that will issue probably 24 to 26 permits – more than fished in any year since 1983 – for a fishery that is not a management problem other than having a highly cyclic stock.

Thank you, and I hope you will reject HB206 from further consideration, but if not, please incorporate the above changes.

Sincerely,

*Paul K. Seaton* 4/7/01

Paul K. Seaton  
58395 Bruce St.  
Homer, AK 99603  
Ph & fax 907 235-6342

FROM : K-N-S MARINE  
03/08/01 14:50 PAX BU/081101Z

FOX NO. : 907 235 6342  
AUFZU DUTCH HARBOR

Apr. 07 2001 09:03AM PA  
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Table 5-30. Bering Sea District Korean hair crab fishery data, 1978-1999.

Year	Number of		Crab <sup>a</sup>	Harvest <sup>b</sup>	Pots		Average		Deerlings <sup>d</sup>
	Vessels	Landings			Registered	Used	CPUE <sup>c</sup>	Weight <sup>e</sup>	
1978/79	11	16	2,457	5,213		0,008	<1	2.1	0
1979/80	8	17	25,417	53,914		14,008	2	2.1	0
1980/81	07	192	1,127,309	2,439,483		172,806	7	2.2	265,188
1981/82	48	159	468,580	932,684		117,518	4	2.0	29,748
1982/83	52	181	575,153	1,211,420		81,348	7	2.1	122,458
1983/84	19	48	200,870	408,838		20,414	10	2.0	28,062
1984	7	28	197,208	393,630		22,392	8	2.0	19,436
1985	3	9	34,410	68,042		3,905	9	2.0	593
1986	3	7	7,280	14,886		4,720	2	2.0	600
1987	2								
1988									
1989									
1990									
1991	7	42	441,633	377,708		44,444	10	.9	0
1992	8	20	203,768	240,767		38,808	6	1.2	11,495
1992	10	47	1,127,948	1,108,590		125,443	8	1.1	65,874
1993	4	5	2,347	3,038		8,345	<1	1.3	0
1993/94	19	129	1,930,706	2,331,888		585,913	3	1.2	124,316
1994	10	55	897,070	1,190,248	13,350	287,864	3	1.3	48,276
1995	21	81	1,435,097	2,059,868	25,750	441,484	3	1.4	73,882

-Continued-

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Table S-30. (Page 2 of 2)

Year	Number of		Crab <sup>a</sup>	Harvest <sup>a,b</sup>	Pots		Average		Deadloss <sup>c</sup>
	Vessels	Landings			Registered	Lited	CPUE <sup>c</sup>	Weight <sup>c</sup>	
1996	10	89	185,736	745,004	20,880	410,648	1	1.5	32,436
1997	16	62	420,121	868,098	10,180	211,970	2	1.8	17,522
1998	12	31	188,784	307,730	14,330	128,498	2	1.8	17,382
1999	8	27	130,894	221,658	8,840	82,333	1	1.0	4,677

<sup>a</sup>Deadloss included.

<sup>b</sup>In pounds.

<sup>c</sup>Number of legal crabs per pot lift.

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S/S





# Alaska State Legislature

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 chickon@gci.net

Testifier

Representing (Optional)

PO Box 3865 Kodiak 99615

Address

907-486-6957

Phone No.

**KOZAK & ASSOCIATES, INC.**  
P. O. Box 2684 - Kodiak, Alaska 99615  
PHONE 907-486-8824 - FAX 907-486-6963  
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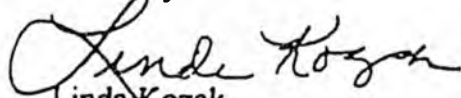
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also assures the State with some certainty that permits will change in the future to the State's fisherman based system when the current operation boats are lost, retired or sold.  
\*\*\* ELLIMINATE ALL SUBSTITUTION; Sec. 16.43.480 (d) and Sec. 16.43.490 \*\*\*

\*\*\* The Federal moratorium and LLP allowed a 20% length extension of the vessel within the license. CFEC testified that they could limit growth to "class" of vessel but that is a very broad range, generally under 60 feet, 60 to 125 feet and above 125 feet. I see nothing in this bill requires that CFEC to limit the growth of individual vessels or limit the expansion capacity of substituted vessels. Again, the rationale for this bill has been to allow continuation of current operation [a current operation changes by expanding capacity of the named vessel]. \*\*\*ADD SECTION MANDATING NO VESSEL LENGTH OR CAPACITY INCREASE WITHOUT TRIGGER OF 2<sup>ND</sup> GENERATION PERMIT TRANSFER PROVISION. \*\*\*

Finally, I want to be sure the committee is informed on the character of this Hair Crab fishery. I am faxing two pages of the catches and participation in this fishery from the ADF&G report. You will note that there were zero (0) landings in 1988, 1989, and 1990. It then climbed to 21 boats and about 1.5 million pounds in 1995. Since then it has steadily declined so that by 1999 there were only 8 boats participating with a total of 140,000 pounds of crab delivered. Last year the main fishing area around the Pribilof Islands was completely closed because of low stock abundance. Three vessels went to the open Northern District, but together delivered only 1,500 pounds [yes, that is one thousand five hundred pounds]. Biologists do not expect this fishery to be open in the next couple of years because they are seeing no significant recruitment. By the time the fishery becomes significant again, all the current vessel owner corporations may be completely out of this business. Why should you change State law to set up a system that will issue probably 24 to 26 permits – more than fished in any year since 1983 – for a fishery that is not a management problem other than having a highly cyclic stock.

Thank you, and I hope you will reject HB206 from further consideration, but if not, please incorporate the above changes.

Sincerely,

*Paul K. Seaton* 4/7/01

Paul K. Seaton  
58395 Bruce St.  
Homer, AK 99603  
Ph & fax 907 235-6342

Table 5-30. Bering Sea District Korean hair crab fishery data, 1978-1999.

Year	Number of		Crab <sup>a</sup>	Harvest <sup>a,b</sup>	Pots		Average		Deadloss <sup>b</sup>
	Vessels	Landings			Registered	Used	CPUE <sup>c</sup>	Weight <sup>d</sup>	
1978/79	11	16	2,457	5,213		9,908	<1	2.1	0
1979/80	9	17	25,417	53,914		14,008	2	2.1	0
1980/81	07	192	1,127,309	2,430,483		172,896	7	2.2	265,188
1981/82	48	160	488,580	932,684		117,518	4	2.0	29,749
1982/83	52	181	575,453	1,211,420		84,348	7	2.1	122,458
1983/84	19	48	200,870	408,638		20,414	10	2.0	28,062
1984	7	28	197,208	390,690		22,392	9	2.0	19,436
1985	3	9	94,410	88,042		3,905	9	2.0	593
1988	3	7	7,280	14,886		4,720	2	2.0	500
1987	2								
1988									
1989									
1990									
1991	7	42	441,533	377,708		44,444	10	.9	0
1992	8	20	203,768	240,767		38,808	6	1.2	11,495
1992	10	47	1,127,948	1,108,590		125,943	9	1.1	63,874
1993	4	5	2,347	3,038		8,345	<1	1.3	0
1993/94	18	129	1,938,785	2,331,888		585,913	9	1.2	124,398
1994	10	55	897,070	1,190,248	13,350	287,854	3	1.3	49,276
1995	21	81	1,485,097	2,059,988	25,750	441,484	3	1.4	73,882

-Continued-

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485

Table S-30. (Page 2 of 2)

Year	Number of		Crab <sup>a</sup>	Harvest <sup>b</sup>	Pots		Average CPUE <sup>c</sup>	Average V <sub>pot</sub> <sup>d</sup>	Deadloss <sup>e</sup>
	Vessels	Landings			Registered	Used			
1986	10	99	195,736	745,804	20,860	410,848	1	1.5	32,436
1987	16	52	420,121	888,098	18,180	211,970	2	1.8	17,522
1988	12	31	188,784	307,730	14,320	128,485	2	1.8	17,392
1989	8	27	139,694	221,658	8,840	82,333	1	1.6	-1,677

<sup>a</sup>Deadloss included.

<sup>b</sup>In pounds.

<sup>c</sup>Number of legal crabs per pot lift.





# Alaska State Legislature

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

committee on HR 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 chickon@gci.net

Testifier

Representing (Optional)

PO Box 3865 Kodiak 99615

Address

907-486-6957

Phone No.



# Alaska Native Brotherhood Camp 2

320 W. Willoughby Avenue, Suite 100\*Juneau, AK 99801\* 907-586-2049\*fax: 586-3301\*email anbcamp2@gci.net

April 2, 2001

Kenai Native Association  
Attn: Rick Segura, Pres.  
215 Fidalgo  
Kenai, Alaska 99611

Dear Rick:

As you are aware, Alaska Native Brotherhood Camp #2 has been inquiring as to the health and safety of our people incarcerated at the prison in Florence Arizona. We have found that the basic living conditions are deplorable.

We had our legal personnel go to Arizona and interview some of our Alaska Native prisoners. They found that there is a high rate of physical abuse, mistreatment, very bad drinking water; food is very bad (please see the attached). Alaska Native Brotherhood is receiving over 100 letters & phone calls from families and prisoners about wanting to file a class action lawsuit to bring our people home. Duke Law University published a law review article that supports a foundation for such a class action. "More Than Just a Private Affair: Is the Practice of Incarcerating Alaska Prisoners in Private out-of-state prisons unconstitutional." Cited 17 Alaska L. Rev. 319. Alaskan Natives who are sent out of the state receive virtually no visitation with family members and even the cost of phone contact is prohibitively high for these families. Most experts seem to agree that visitation is the most important factor to any possibility of effective rehabilitation.

It is our belief that this issue should be addressed and that the President of the AFN should include the complaints in her federal investigation of hate crimes and human rights.

Prisoners' were being mistreated has been a concern with the Dept. of Corrections. Alaskan Natives compose of 52% of the inmate deaths that occurred while in prison. However, Alaskan Natives compose only 37% of the whole prison population. Alaska Native prisoners have been largely forgotten and we pray to bring their plight to the attention of our leaders.

Sincerely,

Ralph Knudson, V.P.

Alaska Native Brotherhood Camp Nos. 2, Inc.

1 IN THE STATE OF ARIZONA )  
2 IN AND FOR PINAL COUNTY ) ss.

3 AFFIDAVIT OF EDWARD BRUCE

4 COMES NOW, Edward Bruce, #190221, to DEPOSE and SAY:

- 5 1. That I am Edward Bruce, the individual stated herein;
- 6 2. That I am currently incarcerated at C.A.D.C., a private corporation, located in Florence, Arizona;
- 7 3. That it is my belief that the State of Alaska, in
- 8 illegally transferring me to the Central Arizona Detention Center,
- 9 has effectively relinquished and lost any and all jurisdiction and
- 10 custody over my person;
- 11 4. That on or about the 11 of June 1996, I observed dozens
- 12 of empty meat cartons inside and beside the trash repository;
- 13 5. That I secured six (6) label's off empty boxes after
- 14 noticing that the label's read: "NOT FOR SALE" "FOR TEST PURPOSES
- 15 ONLY;"
- 16 6. That I took these label's after reading them for
- 17 Attorney and court purposes only, because I was worried about the
- 18 food from these empty containers that we had eaten;
- 19 7. That after CCA employees and the Warden discovered that
- 20 I had these label's, they shook down my living area and threw me
- 21 in the hole;
- 8. That CCA employees interrogated me while in the hole,
- concerning where the labels were (?), who had seen them (?), etc
- 9. That CCA employees terminated my employment as kitchen
- worker because of my non-cooperation during interrogation about
- the label's, my only source of employment and income.

AFFIANT SAYETH NAUGHT FURTHER

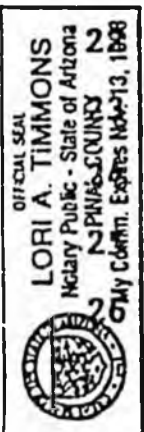
SIGNED AND DATED, this 3 day of July, 1996.

ON THIS DATE, the 3rd day of the month of July, 1996, personally appeared Edward Bruce EDWARD BRUCE before me, Edward Bruce, known to me to be the individual set forth as such, and declared the foregoing to be true and correct the best of his knowledge and belief, and made of his own free w

SWORN AND SUBSCRIBED on this 3rd day of July, 1996.

Lori A. Timmons  
Notary Public - State of Arizona  
2 Pinal County  
My Comm. Expires 12-31-1998  
NOTARY FOR THE STATE OF ARIZONA

Nov. 13, 1998  
MY COMMISSION EXPIRES:





**BEEF PATTIE BULK 1 LB**

INGREDIENTS: BEEF, SALT, HYDROGENATED COTTONSEED AND SOYBEAN OIL,  
HYDROLYZED SOY AND CORN PROTEIN, SPICE EXTRACTIVE, DEXTROSE, SPICE  
AND LESS THAN 2% SILICON DIOXIDE AGENT TO PREVENT CAKING.

**NOT FOR SALE  
FOR TEST PURPOSES ONLY**

**77101T**

**KEEP FROZEN  
NET WT. 16 LBS.**

Cargill Processed Meat Products Wichita, KS 67202

COMMITTED TO QUALITY

XHIBIT B (Evidence)

iv 96-0366-PHX-ROS (BGS)

iv 96-0588-PHX-RCB (VAM)

iv 96-0366-PHX (BGS)

# KENAI NATIVES ASSOCIATION, INC.

215 FIDALGO AVENUE, SUITE 101  
KENAI, ALASKA 99611

TANGENT BUILDING

[www.knainc.com](http://www.knainc.com)

OFFICE: (907) 283-4851

FAX: (907) 283-4854

April 4, 2001

Julie Kitka  
Alaska Federation of Natives  
1577 C Street #300  
Anchorage, AK 99501

VIA FAX: (907) 276-7989

Dear Ms. Kitka:

I hope you will take a few minutes out of your busy schedule and read this letter. I am also sending this letter to Carl Marrs and Gloria O'Neill.

As you well know by now Kenai Natives Association, Inc. along with the Kenai Peninsula Borough and Cornell Corrections is aggressively pursuing the building of a private prison which is to be located on KNA land.

From KNA's prospective it of course started out with economic gains in mind. I would of course be shirking my duty as president and C.E.O. if I were to say otherwise. As I began to research the incarceration of prisoners in Alaska and the overcrowding problem, I began to get a picture of a much greater and culturally deeper rooted problem. I found that a disproportionate number of prisoners were Alaskan Native (over 35%). I also began to find that a large majority of Alaskan Native prisoners were getting longer jail sentences and if my findings are correct any prisoner with a sentence of one to two years or more can be sent out of state, i.e. Arizona. This unfortunately is happening far too often when it comes to our people.

As of late, there has been an outcry among the Native community statewide that racial profiling is taking place in the form of violence and bigotry on the streets and in the job market. I am ashamed to say it has happened to me personally but by God's grace I have learned to forgive.

The point I am leading to is that we have brothers and sisters of like culture in prisons who are also being profiled as Native drunks and troublemakers. I believe they too need our help. A lot of them will be out someday and somebody needs to be there for them. Forgive me for being so bold in asking for your help, but better to have tried and failed than not to try at all. As well known and influential leaders in the Native community, I am asking that you join with me in calling a meeting with Governor Knowles and show your support for this prison project on the Peninsula. Not only do we want to bring all

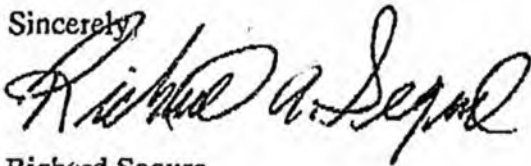
Julie Kitka  
April 4, 2001  
Page 2

Alaskans home, but with deeper cultural roots of compassion, we want to bring home our brothers and sisters.

There are no definite answers or solutions to the problems of substance abuse or the high incarceration rate among our people, but what I do know is that the Department of Corrections' programs are not lowering the recidivism rate that is now at its current level. Personally I would like to see our people counseling our people, empowering our people with Native based culturally oriented programs. If we do not, who will?

I think you have done a wonderful job representing important Native issues throughout Alaska, and being known as a leader with compassion speaks volumes within the Native community. So in closing I would once again ask your help and that of other Native leaders to meet with the Governor as a show of solidarity in support of the building of a private prison on the Kenai Peninsula. Let's bring our people home!

Sincerely,



Richard Segura  
President/C.F.O.

Cc: Gloria O'Neill, CITC  
Fax: (907) 265-5996

Albert Kookesh, AFN  
Fax: (907) 276-7989

Carl Marrs, CIRI  
Fax: (907) 279-8836

Clare Swan, CITC  
Fax: (907) 265-5996

George Wright, KNA  
Fax: (907) 790-3553



**Grand Camp**

**Alaska Native Brotherhood  
Alaska Native Sisterhood**



GCR 00-40

A Resolution Endorsing Construction of Privately owned Prison by Kenai Native Assoc.

Whereas, The Kenai Native Association, Inc. (KNA) has undertaken the development of a private prison to be located on their Wildwood property on the Kenai Peninsula; and

Whereas, The State of Alaska currently sends 1500+ Alaskan prisoners, 37% of whom are Alaska Native, to a private prison in Arizona because of the overcrowding in Alaska prisons; and

Whereas, Having Alaska Native males so far from their homes and villages places undue hardship on their families and also deprives them of cultural considerations while serving their sentences; and

Whereas, The State of Alaska spends over \$18 million per year to keep these prisoners in Arizona while the funds could better be spent by supporting the development of the privately-owned prison at Wildwood; and

Whereas, The proposed privately owned prison facility being developed by KNA would be more adept at meeting the cultural and rehabilitative needs of the Alaska Native prisoners; and

Whereas, The completion of the facility would assist in the effort to bring our people home from confinement in Arizona; now, therefore, be it

Resolved, That the Alaska Native Brotherhood and the Alaska Native Sisterhood endorse the Kenai Native Association's proposal for a private prison at Wildwood on the Kenai Peninsula.

Approved by the ANB and ANS in convention on November 4, 2000 in Juneau, Alaska

*Richard Jackson*

Richard Jackson, Grand President  
Alaska Native Brotherhood

*Jackie Martin*

Jackie Martin, Grand President  
Alaska Native Sisterhood



**Grand Camp**

*Alaska Native Brotherhood  
Alaska Native Sisterhood*



GCR 00-44

A Resolution Requesting Investigation of Disproportionate Incarceration of Alaska Natives

WHEREAS, the State of Alaska sends young men out to a private prison at Florence, Arizona run by the Corrections Corporation of America where approximately 600 indigenous inmates from many tribes are many thousands of miles distant from their tribal lands; and

WHEREAS, an Alaska Indian incarcerated in Arizona was denied medical treatment for a broken hand and is permanently maimed; and

WHEREAS, the traffic in jailing indigenous peoples away from their homelands for profit amounts to interstate commerce on human beings; now, therefore, be it

Resolved, That the Alaska Native Brotherhood and the Alaska Native Sisterhood urge the State of Alaska to form a commission of independent investigators to analyze the disproportionate incarceration of Alaska Natives and provide a full report on such analysis to Native organizations and to the International Human Rights Association of American Minorities.

Further resolved, That the Alaska Native Brotherhood and the Alaska Native Sisterhood urge that all out of state transfers of indigenous inmates be stopped immediately.

Approved by the ANB and ANS in convention on November 4, 2000 in Juneau, Alaska

*Richard Jackson*

Richard Jackson, Grand President  
Alaska Native Brotherhood

*Jackie Martin*

Jackie Martin, Grand President  
Alaska Native Sisterhood

AFFIDAVIT OF RON BLOOMSTRAND

STATE OF ARIZONA            )  
                                  : ss  
PINAL COUNTY                )

I, Ron Bloomstrand, first being duly sworn upon oath, deposes and states the following:

1. I have personal knowledge of the facts set forth herein.

2. I am an Alaskan prisoner housed here at Corrections Corporation of America ("CCA"), doing business as, Central Arizona Detention Center ("CADC") under a contract that CCA/CADC has with Alaska Department of Corrections ("DOC").

3. At all times relevant to the incident described in this affidavit, said incidents took place at CCA/CADC.

4. On November 9th, 2000, at about 10:00 am, I went to the prison library to make photo-copies of legal paperwork that I need to litigate my present and future claims.

5. At this time I was instructed by CCA/CADC employee FIORINI that I could not make photo-copies of my legal paperwork and that I would have to come back the following week.

6. On November 14th, 2000, at approximately 10:00 am, I went back to the prison library to make my needed photo-copies of my legal paperwork.

7. At this time I was once again told by CCA/CADC employee Fiorini that I could not make this needed photo-copies and was told to come back the following week on my library day.

8. I went back to the prison law library and on my way, I saw Mr Samberg and explained my problem to him. Mr Samberg told me that he had not heard of such a rule and further told me to take my legal paperwork to my Case Manager and have him copy it for me.

9. On November 21st, 2000, at approximately 10:00 am, I once again went to the prison library to make photo-copies of other legal paperwork concerning litigation of my present and future claims.

10. At this time I was told by CCA/CADC employee Fiorini that I would only be allowed to make my legal copies on my scheduled library day which is Wednesday of each week.

11. At this time I told CCA/CADC employee Fiorini that I would come back tomorrow which would have been November 22nd, 2000.

12. CCA/CADC employee Fiorini informed me that Wednesday, November 22nd, 2000, the library would be closed for the holidays and that I would have to come back next week after the holidays since every thing would be closed until November 28th, 2000.

13. On Tuesday, November 27th, 2000, at approximately 10:00 am, I went back to the prison library in hopes of being able to make phot-copies of my greatly needed legal paperwork because I was not able to make these legal copies for over ten (10) days at this time and for the fact that my scheduled library day for the week prior was closed for the holidays.

14. At this time CCA/CADC employee Fiorini informed me that I would have to come back on Wednesday, November 29th, 2000.

15. On Wednesday, November 29th, 2000, at approximately 9:00 am, I went back to the prison law library to try to make my legal copies since this was my scheduled library day.

16. At that time I was informed by CCA/CADC employee Fiorini that the library was closed and that I would have to come back at 1:00 pm.

17. On Wednesday, November 29th, 2000, at approximately 1:00 pm, I again went back to the prison law library to try and make photo-copies of my legal paperwork.

18. At that time, I was informed by CCA/CADC employee Fiorini that the library was still closed and that I would have to come back next week on my scheduled library day to get my legal paperwork photo-copies.

19. Since I was sent to CCA/CADC in March of 1998, as a general rule, the policy for prisoners to make legal photo-copies was that the prisoner was allowed to make these copies when the prison library was open.

20. In the affiant's belief, on November 14th, 2000, at approximately 10:00 am when I was returning from being denied my legal photo-copies, I had a conversation with Mr Samberg, who is Warden of CCA/CADC, about the policy at CCA/CADC in regards to the photo-copying of legal paperwork.

21. I brought to Mr Samberg's attention the fact that CCA/CADC employee Fiorini had been denying me access to make my legal photo-copies unless it was my library day.

22. I asked Mr Samberg if there had been a change in the policy on how legal photo-copies are made to where I can only go make them on my scheduled library day?

23. Mr Samberg stated that he was not aware of any policy change in this matter.

24. Mr Samberg also asked me who my Case Manager was and told me to have the legal papers that I needed to make photo-copies of to have my Case Manager make the legal photo-copies for me.

25. Mr Carrier is my Case Manager. I told him what Mr Samberg said and at that time he went and made the legal photo-copies that I needed at that time.

26. Because of the conflicting views on the policy here at CCA/CADC at this time about the photo-copying of legal paperwork, I submitted three (3) prisoner information request ("copout") form to find out what the policy and procedure that is to be followed in this matter.

27. On November 29th, 2000, I submitted these three (3) "Copouts" to Michael Samberg, Warden of CCA/CADC, Ms Judy Gette, Alaska Probation Officer, and the Chief of Security, CCA/CADC.

28. Because of the copout submitted to the Chief of Security, CCA/CADC, I was threaten by an employee of CCA/CADC, Lt Grammer.

29. This took place on November 30th, 2000, at the noon meal because I was not able to eat my meal since I was told to report immediately to the Security Office in 700 Unit.

30. When I arrived (700 Unit, Security Office) there I looked into the the office, at which time I observed Lieutenant Grammer in the office, I asked if this was the Chief of Security's office? (Here is what transpired to the best of my memory).

Lieutenant Grammer (hereafter Lt Grammer)

"What is your name?"

Ron Bloomstrand (hereafter affiant)

"Bloomstrand"

Lt Grammer

"Ya, you come in here!"

Affiant

"What is this all about?"

Lt Grammer

"Is this your copout?"

Affiant looked at copout

"Yes"

Lt Grammer looks at copout

"This is about the library isn't it?"

Affiant

"Yes it is about my legal copies that I need to have copies at the library."

Lt Grammer

"When is your library day?"

Affiant

"Wednesday"

Lt Grammer

"That is when you make your legal copies, Wednesday, every Wednesday."

Affiant

"Well I have been going on Monday, Tuesday, Wednesday, Thursday, and Friday to get my legal copies. You know, whenever I needed to make legal copies. When did they change all of this? I have seen no memo to this effect."

Lt Grammer (Yells)

"Who the fuck do you think you are?! We are suppose to jump because you want copies now?! That doesn't work like that around here!! Where in the hell do you come off insulting us like this, you son of a bitch!!!"

Affiant

"What do you mean, I am not trying to insult anybody."

Lt Grammer (Yells)

"Shut your God Damn mouth!!" (Points to copout)

"It's right here, PRIVATE CITIZEN!!"

"Who the fucking hell do you think you are to insult us like that?!!"

Affiant

"Under Arizona Public Safety Board, you have to have a badge number."

Lt Grammer (Yells)

"We are certified correctional officers, you son of a bitch!!"

"From now on to you we are correctional officers or C.O.s"

And don't forget that!!"

Affiant

"In Alaska I have a case going in court."

Lt Grammer (Before I could finish my sentence, Yelled)

"You ain't got fuck all going in Alaska!!"

"All you Alaskans got your case dismissed!!"

"We didn't ask you fucking Alaskans to come down here. But we're stuck with you, and you will address us as correctional officers or C.O.s from now on!!!"

31. At this point I thought Lt Grammer was going to beat me up because He was standing up yelling at me this whole time and sticking his finger in my face.

32. I was extremely fearful because I remember Lt Grammer from the yard incident that happened on August 30th, 1998, when I watched Lt Grammer beating Alaskan prisoners. There was also another CCA/CADC employee in the room while this exchange was taking place. I do not know this employee's name but he was standing behind and off to my left side throughout this whole incident. This is why I was in fear for my life at this time.

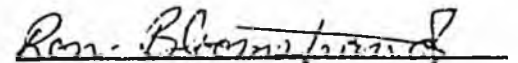
Affiant

"The same copout you got in your hand. Warden Sauberg has one, and Judy Gette, the Alaskan P.O. has one."

Lt Grammer (Looks at copout, then throws it back at me)

"It is verbally answered, get the fuck out!!!"

33. I understand that a false statement in this affidavit will subject me to the penalties of perjury.



Ron Bloomstrand

I declare under the penalty of perjury pursuant to Title 28, U.S.C. § 1746, and Alaska Statute 09.63.020, that the foregoing information contained herein this affidavit is true and correct to the best of my belief and knowledge, and that a Notary Public or other official empowered to administer oaths is unavailable.

Executed at Florence, Arizona on this 5th day of  
December, 2000.

Ron Bloomstrand

Ron Bloomstrand

Alaska Prisoners  
Complaint Summary

Alexia Bernie

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Edward Bruce

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Found labels indicating that they were fed meat, which was sold for test purposes only. Employment was terminated because of this.

Ernest Baker

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Ron Bloomstrand

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Believes he is being mistreated by the staff, also being denied his prisoner rights, complains about rotten food, and how the correctional officers treat him.

Eddie Barr

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Mitch Carlo

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Kevin Scott Charlie

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Andrew Dayton

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Jayson Dennis

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Complains about being served rotten uncooked food, and being allowed only two rolls of toilet paper per week.

Larry Frey

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Robert Flemming

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

William Howarth

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Joseph Placide

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Bobby John

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Complains about not getting enough to eat, breathing recirculated air, and not getting the correct medical treatment.

Milford Knight

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Also had two eagle feathers taken away that were used for religious purposes.

Adam Kochutin

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

**Ben Lozano**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

**Edward Nicholai**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

**James Price**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. He was also diagnosed with psoriasis of the liver and needs to go back to go through preparation to get a liver transplant when his liver fails.

**Harry Pavila**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

**Dean Painter**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

**John Charles Richart**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Also complains about being attacked for no reason, and not receiving the proper medical treatment.

**Richard Silas**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

**Max Sovalik**

**complaint:** Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Jonah Taleak

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture. Also complains that he has been discriminated by the medical staff, and has been served bad food.

Andrew Thane

complaint: Was sent out of Alaska against his will. Being housed out of Alaska prevents or hinders personal contact with family, and separates him from his Alaskan Native culture.

Alaskan Natives who didn't send a form

Joseph Hunt	Paul Ivanoff	Daniel Kiyuklook
Mathew Melton	Johnny Ningeok	Floyd Okpeaha
Hugh Tazruk	Alfred Tuckle	Hoover Adams
Whitlam Adams	James Ankivgak	Peter Ballot
Walter Sacceus	Paul Herbert	John Iyapana Jr.
Ryan Peetook	Pete Bernard	Dwayne Ekak
Harold Saker	Edward Smith	Peter Quick
Folger Andrew	Gregory Gross	Oliver Gregory
Raymond Smallwood	Bobby Lefte	Timothy Joseph
Ostlund William	Leo Pritchard	Alexie Salcar
Walter Fields	Joe Mark	Pete Zaukar
Charles Fawcett	Andrew Adams	Frederick Loon
Johnny Joseph	Kevin Slats	Clinton Williams
George Martin	Alec Ansoak	Charles Samuel
James Alkiugak	Frederick Johnson	Allen Downey
Robert Keelick	Bryan Joseph	Peter Moses
Robert Kaskatok	James Anderson	Johnny Waters
Wilson Downey		

398.1100  
Call ~~XXXX~~

Thomas J Gilmartin  
46677 Lake Street  
Kenai, Alaska. 99611  
907-776-5639

1/30/2002

Rep. Pete Kott,

Attached is a list of nine changes to our fisheries management that I believe would spur our small boat fleet with years or positive economic activity. These changes are needed now because a lot of our support industries are beginning to disappear.

Tom Gilmartin

Bill ID: HB 206

HB 206

HOUSE BILL NO.

"The federal government has delegated to the State the authority to manage all aspects of the scallop fishery. Except access in federal waters."

- 1.) Half the states entire scallop quota into 675,000 pounds for a Federal waters quota and 675,000 pounds for a State waters quota.
- 2.) End the moratorium that is due to expire in 2004 on vessels entering the States scallop fishery and leave the fishery open access.

**This will help fisherman diversify and spur the small boat economy.**

- 3.) Limit Federal waters vessels to two ten-foot dredges.
- 4.) Limit State waters vessels to one 10-foot dredge.
- 5.) Limit state waters vessels to six men on board.
- 6.) Amend 5 AAC 39.645 On vessels under 60 feet on board observers will be supplied by the state-funded observer program. **This because the State is receiving 5% tax on all scallops landed.**
- 7.) Fish & Game should instruct fisherman in biological data gathering. In place of all on board observers. **This would ease the budget on the state funded observer program and encourage fisherman to be professionals involved in managing the resource. Impose heavy fines or loss of permits if false data is supplied.**
- 8.) Encourage the development of our state waters catcher-seller vessels under 65ft. By encouraging at sea fresh freezing. This can be done, by extending the catcher seller processing tax exemption to vessels freezing on board. Right now vessels are discouraged from doing freezing because they have to have a fisheries business license, post a tax bond and file a tax return plus a bunch more hoops to jump through. **With the catcher seller tax exemption extended to direct market vessels the small boat economy would boom.**
- 9.) Take over management of 40% of all ground-fish, cod, pollack, sole, dog-shark, sharks, skates, etc. Open access for all these species on one card. State waters ground-fish card for jig, hand line, long line etc. As it is now, if a fisherman has a jig permit and goes out fishing today 01/29/02 he is only allowed to target pacific cod. All other species are at 10% by-catch only. Now we're talking about sole, flounder, pollock, skates & dog sharks just to name a few of the species. **This is not practical at all and has to be changed fishers risk life & limb to get out and should be allowed to retain what they catch.**

Call  
1230  
for

Rep Mordike

WORK DRAFT

WORK DRAFT

WORK DRAFT

needs to be adopted.

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

L

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

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

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

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

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

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

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

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

(d) The commission may adopt regulations authorizing the simultaneous transfer of a transferable vessel entry permit to an eligible transferee and the 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 <sup>may</sup> 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. *Issue of leasing.*

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

*- HP!  
overall  
length  
consistent w/  
previous versions  
define  
Temporary  
Subjective*

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

- 1 in the state;
- 2 (2) establish priorities for the application of the provisions of this
- 3 chapter to the various commercial fisheries of the state;
- 4 (3) establish administrative areas suitable for regulating and
- 5 controlling entry into the commercial fisheries;
- 6 (4) establish, for all types of gear, the maximum number of entry
- 7 permits for each administrative area;
- 8 (5) designate, when necessary to accomplish the purposes of this
- 9 chapter, particular species for which separate interim-use permits or entry permits will
- 10 be issued;
- 11 (6) establish qualifications for the issuance of entry permits;
- 12 (7) issue entry permits to qualified applicants;
- 13 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,
- 14 and 16.43.225;
- 15 (9) establish, for all types of gear, the optimum number of entry
- 16 permits for each administrative area;
- 17 (10) administer the buy-back program provided for in AS 16.43.310
- 18 and 16.43.320 to reduce the number of outstanding entry permits to the optimum
- 19 number of entry permits;
- 20 (11) provide for the transfer and reissuance of entry permits to
- 21 qualified transferees;
- 22 (12) provide for the transfer and reissuance of entry permits for
- 23 alternative types of legal gear, in a manner consistent with the purposes of this
- 24 chapter;
- 25 (13) administer the collection of the annual fees provided for in
- 26 AS 16.43.160;
- 27 (14) administer the issuance of commercial fishing vessel licenses
- 28 under AS 16.05.490;
- 29 (15) issue educational entry permits to applicants who qualify under
- 30 the provisions of AS 16.43.340 - 16.43.390;
- 31 (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

1 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION.  
2 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
3 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
4 knowingly provide or assist in providing false information, or fail to correct false  
5 information provided, to the commission for the purpose of obtaining a benefit.

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

7 (a) A person who violates a provision of this chapter or a regulation adopted  
8 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
9 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
10 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
11 first conviction, and a fine of not more than \$10,000 for a second or third conviction.  
12 Upon a first or second conviction under this subsection, the court may in its discretion  
13 also order the commission to suspend the commercial fishing privileges of the person  
14 or entity for a period of not more than three years and to revoke one or more or all  
15 commercial fishing permits held by the person or entity. Upon a third or subsequent  
16 conviction under this subsection, the person or entity is also subject to a loss of  
17 commercial fishing privileges as provided under (i) of this section. This subsection  
18 does not apply to violations of AS 16.43.140(a).

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

20 (b) A person or entity who knowingly makes a false statement to the  
21 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
22 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
23 interim-use permit, or vessel entry permit, or a person who assists another by  
24 knowingly making a false statement to the commission for the purpose of obtaining a  
25 benefit for another, is guilty of the crime of unsworn falsification as set out in  
26 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
27 commercial fishing privileges and revocation of commercial fishing permits under (i)  
28 of this section.

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

30 (d) If a permit holder is charged by the state with violating a provision of this  
31 chapter or a regulation adopted under this chapter, the holder may not transfer [,

1 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any  
2 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the  
3 final adjudication or dismissal of the charges.

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

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

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

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

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

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

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

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

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

30 (4) a notice from the court that a person has been convicted of a  
31 violation described under (g)(1) of this section, suspend all commercial fishing

1 privileges of the person for a period of one year from the date of conviction;

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

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

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

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

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

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

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

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

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

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

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

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

29 \* Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt

1 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds  
2 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

3 \* **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

4 \* **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

*ORIGINAL*

**HOUSE BILL NO. 206**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced: 3/22/01

Referred: House Special Committee on Fisheries, Resources

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

7 **FINDINGS.** The legislature finds that

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

11 (2) a system that limits the number of vessels that may engage in a fishery  
12 may be necessary to regulate certain existing, developing, or future fisheries in order to  
13 promote the conservation and sustained yield management of Alaska's fishery resource and  
14 the economic health and stability of commercial fishing in this state;

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

5 (4) the United States Department of Commerce has taken action to restrict  
 6 access to groundfish, crab, and scallop fisheries in the waters of the United States exclusive  
 7 economic zone adjacent to the state water of Alaska using a vessel-based limited entry  
 8 system;

9 (5) a vessel-based limited entry system may be necessary to facilitate state  
 10 management of fisheries that overlap with federally managed fisheries in the United States  
 11 exclusive economic zone, especially for fisheries under a federal limited entry system; and

12 (6) a vessel-based limited entry system may be necessary to achieve  
 13 compatible state and federal management and enforcement of fisheries.

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

15 **Article 6A. Vessel Permit System.**

16 **Sec. 16.43.450. Vessel permit system.** (a) The commission may establish a  
 17 vessel permit system for a fishery under state management if the commission  
 18 determines that

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

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

23 (3) limiting the number of participants in the fishery under  
 24 AS 16.43.140 - 16.43.330 would not achieve the purposes of this chapter.

25 (b) The commission may establish a vessel permit system for a fishery that  
 26 occurs in the United States exclusive economic zone or both the United States  
 27 exclusive economic zone and state waters if the conditions set out in (a)(1) and (2) of  
 28 this section are satisfied and if regulating the number of vessels in the fishery would  
 29 enable the state to gain or retain management of the fishery; in making a determination  
 30 under this subsection, the commission shall consider relevant provisions of federal  
 31 fishery management plans.

1 (c) For a fishery in which the federal government has delegated management  
2 authority in the United States exclusive economic zone to the state, the commission  
3 may, to the extent consistent with this chapter, adopt regulations to ensure that the  
4 vessel permit system is consistent with applicable federal laws.

5 (d) If the commission establishes a vessel permit system for a fishery that  
6 involves more than one fishery resource, type of gear, or administrative area, the  
7 commission may limit, as the commission determines appropriate, the fishery  
8 resources that may be harvested under the vessel permit, the types of gear that may be  
9 used under the vessel permit, or the areas where fishing may occur under the vessel  
10 permit. The commission shall adopt criteria, as appropriate, for determining

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

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

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

24 (f) The commission shall adopt regulations limiting the number of vessel  
25 permits that may be held by a permit holder or group of related permit holders if the  
26 commission finds that limiting the number of vessel permits that may be held by a  
27 permit holder or group of related permit holders is necessary to prevent the excessive  
28 concentration of ownership of vessel permits in a fishery.

29 **Sec. 16.43.460. Initial issuance of vessel permits.** (a) For each fishery in  
30 which the commission establishes a vessel permit system, the commission shall  
31 establish qualifications for vessel interim-use permits and vessel entry permits. The

1 qualifications may include a qualification date, eligibility period, recent participation  
2 requirements, minimum requirements for the nature and degree of ownership interest  
3 that a permit holder must have in a vessel in order to receive a vessel permit for the  
4 vessel, and criteria for receiving transferable and nontransferable vessel entry permits.  
5 In adopting qualifications for transferable and nontransferable vessel entry permits, the  
6 commission shall consider

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

10 (2) the level of past participation and harvest in the fishery, the nature  
11 of the fishery, and the need to ensure the manageability of the fishery and conservation  
12 of the fishery resource.

13 (b) If the commission establishes a vessel permit system under AS 16.43.450 -  
14 16.43.520 for a fishery that is subject to a moratorium on entry of new vessels under  
15 AS 16.43.901 or 16.43.906, the commission may incorporate some or all of the vessel  
16 eligibility criteria established for the moratorium into the eligibility criteria for vessel  
17 permits issued under the vessel permit system.

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

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

30 (e) The commission shall adopt regulations regarding

31 (1) the determination of which person or entity is eligible to receive a

1 vessel interim-use permit or a vessel entry permit for a vessel in the event of  
2 competing claims to ownership of the vessel;

3 (2) the substitution of another vessel by the applicant for a vessel  
4 interim-use permit or a vessel entry permit if the vessel used to establish eligibility for  
5 a vessel entry permit is lost before the initial issuance of a vessel entry permit for the  
6 vessel.

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

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

14 (1) facilitate sound management of the fishery;

15 (2) promote

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

17 (B) broad access to the fishery;

18 (C) conservation of the resource;

19 (D) quality seafood products; and

20 (3) discourage waste of harvested fish.

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

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

1 (e) If the optimum number range of vessel entry permits is greater than the  
2 number of permits authorized for the fishery, the commission shall issue additional  
3 vessel entry permits until the number of vessel entry permits is consistent with the  
4 optimum number range for the fishery. The commission shall obtain fair market value  
5 for new vessel entry permits issued under this subsection. The commission shall  
6 determine whether the additional vessel entry permits issued under this subsection are  
7 transferable or nontransferable.

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

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

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

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

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

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

3 (d) The commission may adopt regulations authorizing the simultaneous  
4 transfer of a transferable vessel entry permit to an eligible transferee and the  
5 substitution of another vessel for the vessel identified on the permit under  
6 AS 16.43.490.

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

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

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

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

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

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

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

31 (d) Failure to renew a vessel entry permit for two consecutive years from the

1 year of last renewal results in a forfeiture of the permit unless the forfeiture is waived  
2 by the commission for good cause. If an administrative closure of a fishery occurs for  
3 an entire season, the commission may not count the season toward the two-year  
4 period.

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

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

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

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

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

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

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

1 (2) either

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

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

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

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

12 (e) AS 16.43.450 - 16.43.520 do not alter the requirement for an interim-use  
13 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -  
14 16.05.520.

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

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

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

22 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume  
23 management of a fishery [THE SCALLOP FISHERIES] in offshore water adjacent to  
24 the state in the absence of a federal fishery management plan for the fishery  
25 [SCALLOPS] or in the event that a federal fishery management plan for the fishery  
26 [SCALLOPS] delegates authority to the state to manage the fishery [SCALLOP  
27 FISHERIES] in the United States exclusive economic zone. 3-200 miles

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

29 (a) It is the purpose of this chapter to promote the conservation and the  
30 sustained yield management of Alaska's fishery resource and the economic health and  
31 stability of commercial fishing in Alaska by regulating and controlling entry of

1           participants and vessels into the commercial fisheries in the public interest and  
2           without unjust discrimination.

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

4                   (a) To accomplish the purposes set out in AS 16.43.010, the commission shall  
5                           (1) regulate entry into the commercial fisheries for all fishery resources  
6                   in the state;

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

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

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

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

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

17                           (7) issue entry permits to qualified applicants;

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

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

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

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

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

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

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

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

5 (16) establish reasonable user fees for services;

6 (17) issue landing permits under AS 16.05.675 and regulations adopted  
7 under that section;

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

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

13 (20) administer the vessel permit system authorized under  
14 AS 16.43.450 - 16.43.520.

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

16 (b) When the commission finds that a fishery, not designated as a distressed  
17 fishery under AS 16.43.230 or not subject to a moratorium under AS 16.43.225, has  
18 reached levels of participation that require the limitation of entry under AS 16.43.140  
19 - 16.43.330 in order to achieve the purposes of this chapter, the commission shall  
20 establish the maximum number of entry permits for that fishery.

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

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

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

27 (a) The commission may revoke, suspend, or transfer all entry or interim-use  
28 permits, vessel entry permits, or vessel interim-use permits held by a person or  
29 entity who knowingly provides or assists in providing false information, or fails to  
30 correct false information provided to the commission for the purpose of obtaining a  
31 benefit for self or another, including the issuance, renewal, duplication, or transfer of

1 an entry or interim-use permit, [OR] vessel license, vessel entry permit, or vessel  
 2 interim-use permit. The commission may suspend, as appropriate, that person's or  
 3 entity's eligibility to hold an entry or interim-use permit, vessel entry permit, or  
 4 vessel interim-use permit for a period not to exceed three years, and may impose an  
 5 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION  
 6 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
 7 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
 8 knowingly provide or assist in providing false information, or fail to correct false  
 9 information provided, to the commission for the purpose of obtaining a benefit.

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

11 (a) A person who violates a provision of this chapter or a regulation adopted  
 12 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
 13 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
 14 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
 15 first conviction, and a fine of not more than \$10,000 for a second or third conviction.  
 16 Upon a first or second conviction under this subsection, the court may in its discretion  
 17 also order the commission to suspend the commercial fishing privileges of the person  
 18 or entity for a period of not more than three years and to revoke one or more or all  
 19 commercial fishing permits held by the person or entity. Upon a third or subsequent  
 20 conviction under this subsection, the person or entity is also subject to a loss of  
 21 commercial fishing privileges as provided under (i) of this section. This subsection  
 22 does not apply to violations of AS 16.43.140(a).

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

24 (b) A person or entity who knowingly makes a false statement to the  
 25 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
 26 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
 27 interim-use permit, or vessel entry permit, or a person who assists another by  
 28 knowingly making a false statement to the commission for the purpose of obtaining a  
 29 benefit for another, is guilty of the crime of unsworn falsification as set out in  
 30 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
 31 commercial fishing privileges and revocation of commercial fishing permits under (i)

1 of this section.

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

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

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

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

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

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

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

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

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

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

30 (3) a notice from the court that a person or entity has been convicted  
31 of a violation described under (b) of this section, suspend all commercial fishing

1 privileges of the person or entity for a period of three years from the date of  
2 conviction and revoke all commercial fishing permits held by the person or entity;

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

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

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

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

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

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

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

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

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

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

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

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

30 (10) "entity" means a corporation, company, partnership, firm,  
31 association, organization, joint venture, trust, society, or other legal entity other than a

1 natural person.

2 \* **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt  
5 regulations under AS 44.62 (Administrative Procedure Act) that the commission finds  
6 necessary to implement this Act. The regulations may not take effect before July 1, 2002.

7 \* **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

8 \* **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect July 1, 2002.

Questions for Mary from CFC: HB206

**In the original limited entry program that involved Salmon fisheries:**

- How many permits were originally issued to villagers?
- How many are still held by villagers?
- How will the transferability of these limited entry permits be different from that system
- I would appreciate hearing what the annual anticipated catch value per vessel will be, and I would like to know what the remuneration to the state will be for the use of that resource beyond a nominal permit fee.
- As a state we expect fair compensation for the use of our resources in other areas (oil and gas); therefore it seems to me that we should expect fair compensation for the use of our fisheries resources. Furthermore, if the vessel permits we are creating with this legislation are going to be transferable, then the state should receive a fair price for those permits upon their initial issuance.

*Aenn*

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**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.

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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.

Person only

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

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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. *- could apply to 2nd generation*

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

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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(h).

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

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AS 16.43.490.

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

(f) The commission shall adopt regulations relating to the expiration of nontransferable vessel entry permits. *- could apply to 2nd generation*

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

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is suspended by operation of law under AS 16.43.480(u).

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

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

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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

1 in the state;

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

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

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

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

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

12 (7) issue entry permits to qualified applicants;

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

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

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

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

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

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

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

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

31 (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

1 administrative fine of not more than \$5,000 on the person or [. THE COMMISSION  
2 MAY ALSO IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
3 \$5,000 ON AN] entity whose officers, employees, representatives, or agents  
4 knowingly provide or assist in providing false information, or fail to correct false  
5 information provided, to the commission for the purpose of obtaining a benefit.

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

7 (a) A person who violates a provision of this chapter or a regulation adopted  
8 under this chapter or an entity that violates a provision of AS 16.43.450 - 16.43.520  
9 or a regulation adopted under AS 16.43.450 - 16.43.520 is, upon conviction, guilty  
10 of a class B misdemeanor and is punishable by a fine of not more than \$5,000 for a  
11 first conviction, and a fine of not more than \$10,000 for a second or third conviction.  
12 Upon a first or second conviction under this subsection, the court may in its discretion  
13 also order the commission to suspend the commercial fishing privileges of the person  
14 or entity for a period of not more than three years and to revoke one or more or all  
15 commercial fishing permits held by the person or entity. Upon a third or subsequent  
16 conviction under this subsection, the person or entity is also subject to a loss of  
17 commercial fishing privileges as provided under (i) of this section. This subsection  
18 does not apply to violations of AS 16.43.140(a).

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

20 (b) A person or entity who knowingly makes a false statement to the  
21 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
22 duplication, or transfer of an entry or interim-use permit, [OR] vessel license, vessel  
23 interim-use permit, or vessel entry permit, or a person who assists another by  
24 knowingly making a false statement to the commission for the purpose of obtaining a  
25 benefit for another, is guilty of the crime of unsworn falsification as set out in  
26 AS 11.56.210. Upon conviction, the person or entity is also subject to suspension of  
27 commercial fishing privileges and revocation of commercial fishing permits under (i)  
28 of this section.

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

30 (d) If a permit holder is charged by the state with violating a provision of this  
31 chapter or a regulation adopted under this chapter, the holder may not transfer [,

1 UNDER AS 16.43.170,] any interim-use or entry permit under AS 16.43.170 or any  
2 transferable vessel entry permit under AS 16.43.450 - 16.43.520 [,] until after the  
3 final adjudication or dismissal of the charges.

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

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

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

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

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

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

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

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

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

30 (4) a notice from the court that a person has been convicted of a  
31 violation described under (g)(1) of this section, suspend all commercial fishing

1 privileges of the person for a period of one year from the date of conviction;

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

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

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

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

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

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

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

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

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

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

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

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

29 \* Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 REGULATIONS. The Alaska Commercial Fisheries Entry Commission may adopt

*1st degree only @ initial issuance*

*cannot be transferred to a 3 entity - when entities sell they have to sell to a person*